Journal of the Senate

Number 15 **Thursday, May 24, 1990**

CALL TO ORDER

The Senate was called to order by the President at 9:30 a.m. A quorum present—40:

Mr. President	Deratany	Johnson	Plummer
Bankhead	Diaz-Balart	Kirkpatrick	Scott
Beard	Dudley	Kiser	Souto
Brown	Forman	Langley	Stuart
Bruner	Gardner	Malchon	Thomas
Casas	Girardeau	Margolis	Thurman
Childers, D.	Gordon	McPherson	Walker
Childers, W. D.	Grant	Meek	Weinstein
Crenshaw	Grizzle	Myers	Weinstock
Davis	Jennings	Peterson	Woodson-Howard

Excused: Periodically, conferees on Finance and Taxation

PRAYER

The following prayer was offered by the Reverend Samuel Maxwell, Pastor, True Vine Missionary Baptist Church, Sarasota:

Have mercy upon us O God, according to your tender mercy. Thank you for the blessings of life, health and family.

O God, hear the prayer of your servant on behalf of these honorable men and women. Lord, declare your will to the hearts, minds and conscience of these state governmental officials.

Guide them, Lord, that they might do justly, love mercy and walk humbly before you. God, we thank you for the sacrifice offered by these honorable men and women. Smile down favorably upon their families and their businesses as they assemble in this Chamber.

And finally Lord, make your presence known in this place that we might know that there is no power but yours and that the powers that be are ordained by you.

O Lord, our Lord, how excellent is your name in all the earth. In your name we pray. So say we all. Amen.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Thursday, May 24, 1990: SB 714, SB 2676, CS for SB 2492, SB 1362, SB 1218, SB 1516, SB 1374, CS for SB 1802, SB 2044, SB 3054, CS for SB 3056, SB 78, CS for SB 30, CS for SB 304, SB 1028, CS for SB 1022, CS for SB 1024, SB 262, SB 946, SB 2468, CS for SB 2920, SB 562, CS for SB 358, SB 1952, CS for SB 1882, SB 2400, CS for SB 2026, SB 2510, SB 2986, CS for SB 1288, CS for SB 758, SB 452, CS for SB 470, CS for CS for SB 158, CS for SB 124, HB 2281

Respectfully submitted,
James A. Scott, Chairman

The Committee on Commerce recommends a committee substitute for the following: SB 1614

The Committee on Finance, Taxation and Claims recommends committee substitutes for the following: SB 1708, CS for SB 2018, SB 2152, SB 3068

The bills with committee substitutes attached contained in the foregoing reports were referred to the Committee on Appropriations under the original reference.

The Committee on Commerce recommends a committee substitute for the following: SB 2706

The bill with committee substitute attached was referred to the Committee on Community Affairs under the original reference.

The Committee on Transportation recommends a committee substitute for the following: SB 1316

The bill with committee substitute attached was referred to the Committee on Finance, Taxation and Claims under the original reference.

The Committee on Commerce recommends committee substitutes for the following: SB 1748, SB 2522

The bills with committee substitutes attached were referred to the Committee on Governmental Operations under the original reference.

The Committee on Commerce recommends a committee substitute for the following: SB 1704

The bill with committee substitute attached was referred to the Committee on Insurance under the original reference.

The Committee on Insurance recommends a committee substitute for the following: SB 3060

The bill with committee substitute attached was referred to the Committee on Judiciary-Civil under the original reference.

The Committee on Commerce recommends a committee substitute for the following: SB 678

The bill with committee substitute attached was referred to the Committee on Judiciary-Criminal under the original reference.

The Committee on Commerce recommends a committee substitute for the following: Senate Bills 1560 and 2366

The bills with committee substitutes attached were referred to the Committee on Rules and Calendar under the original reference.

The Committee on Commerce recommends a committee substitute for the following: SB 614

The bill with committee substitute attached was referred to the Committee on Transportation under the original reference.

The Committee on Appropriations recommends committee substitutes for the following: CS for SB 616, SB 750, CS for SB 1150, CS for SB 1458, CS for CS for SB 2076, CS for SB 2488

The Committee on Finance, Taxation and Claims recommends committee substitutes for the following: SB 416, SB 3062

The bills with committee substitutes attached contained in the foregoing reports were placed on the calendar.

FIRST READING OF COMMITTEE SUBSTITUTES

By the Committee on Finance, Taxation and Claims; and Senator Forman—

CS for SB 416—A bill to be entitled An act relating to ad valorem taxes; amending s. 196.101, F.S., which provides an exemption for totally and permanently disabled persons; specifying additional physicians authorized to certify total and permanent disability; requiring a study to be conducted by the Department of Revenue; providing an effective date.

By the Committee on Commerce and Senator Forman—

CS for SB 614—A bill to be entitled An act relating to the carriage trade; creating a Carriage Trade Task Force within the Department of Professional Regulation; requiring the task force to report to the Governor and the Legislature by March 1, 1991; providing for membership; providing for the abolishment of the task force; providing an effective date.

By the Committees on Appropriations and Governmental Operations and Senator Gardner—

CS for CS for SB 616—A bill to be entitled An act relating to the Spaceport Florida Authority Act; amending s. 331.303, F.S.; providing definitions; amending s. 331.304, F.S.; revising the boundaries of the authority with respect to real property located in Gulf County; amending s. 331.305, F.S.; authorizing the authority to establish procedures, rules, and rates governing the per diem and travel expenses of the members of its board of supervisors and other persons authorized by the board to incur such expenses; subjecting authority per diem and travel expense rules to state law or rules; revising bond authority; providing for the expenditure of funds for entertainment and travel expenses and business clients, guests, and other authorized persons; amending s. 331.310, F.S.; providing additional powers and duties of the board of supervisors; creating s. 331.3101, F.S.; requiring the authority to adopt rules with respect to travel and entertainment expenses; requiring an annual report; providing penalties; amending s. 331.331, F.S.; revising bond authority and reporting requirements; amending s. 331.334, F.S.; providing that bonds do not constitute an obligation, either general or special, of the state; amending s. 331.338, F.S.; revising language with respect to trust agreements; amending s. 331.347, F.S., to conform; amending s. 331.348, F.S.; revising language with respect to investment of funds to include investment through the State Treasurer; amending s. 331.352, F.S.; revising limitations on the power of the authority; providing an effective date.

By the Committee on Commerce and Senator Souto—

CS for SB 678—A bill to be entitled An act relating to private wire services; creating s. 365.145, F.S.; requiring that a private wire service obtain proper identification in order to disburse funds; providing an effective date.

By the Committees on Appropriations and Transportation—

CS for SB 750—A bill to be entitled An act relating to the Department of Transportation; amending s. 186.021, F.S.; requiring the state agency functional plan of the department to be submitted as a section of the Florida Transportation Plan; amending s. 216.345, F.S.; deleting statutory recipients of membership dues reports of the department; amending s. 334.046, F.S.; modifying reporting requirements with respect to departmental compliance with program objectives; amending s. 335.04, F.S.; eliminating the requirement for a report on road reclassification; amending s. 335.074, F.S.; changing requirements for reporting deficient bridges; amending s. 337.11, F.S.; providing for future termination of reporting requirements of the Design/Build demonstration project; amending s. 339.135, F.S.; deleting reporting requirements for manpower utilization; amending s. 339.155, F.S.; establishing the state agency functional plan as a section of the Florida Transportation Plan; amending s. 427.013, F.S.; requiring an accounting of expenditures from the Transportation Disadvantaged Trust Fund; repealing s. 218.32(4), F.S., relating to reports of uniform program data furnished by local governments; amending s. 479.26, F.S.; providing that the department may adopt a procedure whereby a private business may pay the initial cost for the erection of information panels; providing for reimbursement of such costs; providing an effective date.

By the Committee on Commerce and Senator Langley—

CS for SB 986—A bill to be entitled An act relating to obscene material; amending s. 847.0125, F.S.; including certain records, wires, tapes, or other recordings in a group of materials which may not be displayed in a retail establishment; providing a penalty; providing exemptions; providing an effective date.

By the Committees on Appropriations; Ethics and Elections; and Senator Brown—

CS for CS for SB 1150—A bill to be entitled An act relating to elections; amending s. 99.061, F.S.; revising the qualifying period for write-in candidates; providing for alternative qualifying dates for federal candidates; amending s. 99.095, F.S.; revising provisions relating to qualifying for nomination by the alternative method; changing oath and petition filing dates; amending s. 99.0955, F.S.; revising the dates for certain independent candidates to submit petitions; amending s. 99.097, F.S.; revising provisions relating to petition verification; amending s. 100.111, F.S.; requiring the Department of State to set dates for qualifying by petition in special elections; providing for the required number of signatures; amending s. 100.141, F.S.; revising the notice requirements for special elections, to conform; amending s. 101.015, F.S.; requiring standards for voting systems; repealing s. 101.31, F.S., which relates to experimental use of voting systems; amending s. 101.5614, F.S.; providing for security guidelines for transmission of returns; renumbering s. 102.1691, F.S., relating to voting systems certification; amending s. 104.051, F.S.; providing a penalty for any supervisor of elections, deputy supervisor of elections, or elections employee who attempts to influence or interfere with an elector voting; amending s. 105.035, F.S.; changing oath and petition filing dates for certain judicial officers qualifying by the alternative method; amending s. 106.011, F.S.; revising definitions of the terms "political committee," "contribution," and "expenditure"; amending s. 106.021, F.S.; requiring candidates for certain offices to file the names and addresses of their campaign treasurers with the supervisor of elections in the county of their residence; changing terminology; amending s. 106.03, F.S.; eliminating a filing exemption; amending s. 106.04, F.S.; allowing committees of continuous existence to make contributions through political committees or political parties; providing that a committee of continuous existence need not file a copy of its charter or bylaws with its annual report under certain conditions; prescribing the penalty for incorrect, false, or incomplete reports; providing for the adoption of rules relating to revocation of certification and fine waivers; increasing the period to pay or appeal a fine for a late report; amending s. 106.06, F.S.; conforming provisions; amending s. 106.07, F.S.; modifying provisions relating to campaign reports; revising the dates on which campaign treasurers' reports are due; providing additional circumstances under which reports are required to be filed; eliminating a filing exemption; increasing the period to pay or appeal a fine for a late report; providing for the adoption of rules on certain fine waivers; amending s. 106.075, F.S.; providing for reporting to the filing officer; amending s. 106.08, F.S.; allowing candidates to make, with campaign funds, certain purchases from political party groups; amending s. 106.141, F.S., relating to disposition of surplus funds; providing for withdrawal of funds subject to a withdrawal penalty; amending s. 106.24, F.S.; establishing procedures for hearings before the Florida Elections Commission; providing for rules; amending s. 106.34, F.S.; providing for adjustments to the expenditure limits for matching funds; amending s. 106.35, F.S.; providing for distribution of funds; amending s. 582.18, F.S.; providing procedures for qualification of candidates for election to supervisor of a soil and water conservation district; amending s. 166.031, F.S.; requiring municipalities to provide for certain ordinance or charter amendments; repealing s. 99.032, F.S., relating to qualification of candidates for county commission; providing an effective date.

By the Committee on Transportation and Senators Beard and Kiser—

CS for SB 1316—A bill to be entitled An act relating to the transportation needs of Florida; providing legislative intent; creating s. 338.001, F.S.; creating the Florida Intrastate Highway System Plan; amending s. 334.03, F.S.; providing funding allocations; redefining the term "controlled access facility," "limited access facility," and "State Highway System"; defining the term "Florida Intrastate Highway System"; amending s. 334.046, F.S.; including the development and implementation of the Florida Intrastate Highway System within the program objectives of the Department of Transportation; amending ss. 288.063, 479.01, F.S.; correcting cross-references; amending s. 338.221, F.S.; redefining the terms "turnpike system," "turnpike improvement," "economically feasible," and "turnpike project"; defining the term "statement of environmental feasibility"; amending s. 338.222, F.S.; prohibiting governmental entities, other than the department, from operating turnpike projects; providing for contracts between local governmental entities and the department; amending s. 338.223, F.S.; revising language with respect to proposed turnpike projects; providing for legislative approval at a certain point; amending s. 338.227, F.S.; providing reference to legislative approval with respect to turnpike revenue bonds; providing a limitation on the use of revenues and bond proceeds by the Department of Transportation with respect to the Florida Turnpike Law; encouraging minority business participation; amending s. 287.042, F.S.; revising language with respect to the powers and duties of the Division of Purchasing of the Department of General Services; defining the term "minority business enterprises"; creating s. 338.2275, F.S.; providing for Legislative intent with respect to the Western Beltway turnpike project; providing for approved turnpike

projects; providing a list of approved projects; providing for economic feasibility; amending s. 348.243, F.S.; providing an additional power of the Broward County Expressway Authority; amending s. 338.228, F.S.; revising language with respect to certain bonds not being considered debts or pledges of credit by the state; amending s. 338.231, F.S.; revising language with respect to turnpike tolls; amending s. 215.82, F.S.; including a cross-reference with respect to bond validation; amending s. 338.251, F.S.; revising language with respect to the fund; prohibiting advancements under certain circumstances; providing for the deposit of certain funds into the Toll Facilities Revolving Trust Fund; creating s. 338.25, F.S.; providing for Central Florida Beltway mitigation; renaming chapter 338, F.S., as Florida Intrastate Highway System and Toll Facilities; creating the Florida Expressway Authority Act; providing definitions; providing for formation and membership of the authority; providing purposes and powers; providing for bonds; providing for lease-purchase agreement; providing that the Department of Transportation may be appointed as an agent for construction; providing for acquisition of lands and property; providing for cooperation with other units, boards, agencies, and individuals; providing for the covenant of the state; providing for exemption from taxation; providing for applicability; creating s. 337.276, F.S.; providing requirements with respect to the Department of Transportation in regard to advanced acquisition of right-of-way; amending s. 339.135, F.S.; providing for the allocation of funds for bridge fender system construction or repair; providing for allocation of funds for public transit block grants; providing for identification of advanced right-of-way acquisition projects and right-of-way phases in the tentative work program; requiring additional information in the report submitted by the department with the tentative work program; providing that certain projects identified in the General Appropriations Act shall also be identified as a debit against described funds; revising language with respect to the amendment of the adopted work program; amending s. 339.155, F.S.; providing for the identification and acquisition of right-of-way in the development of the statewide transportation plan; requiring the consideration of a seaport or airport master plan; providing criteria for certain projects; amending s. 339.12, F.S.; revising language with respect to aid and contributions by governmental entities for rights-of-way, construction, or maintenance of roads and bridges in the State Highway System; amending s. 335.20, F.S.; revising the Local Government Transportation Assistance Act with respect to project funding by the Department of Transportation; creating s. 334.048, F.S.; providing legislative intent with respect to department management accountability and monitoring systems; amending s. 20.23, F.S.; providing additional duties of the secretary; revising language with respect to the central office; providing for an Assistant Secretary for Transportation Policy and prescribing his duties; providing for additional duties for the central office; providing for the Office of Information Systems; providing for additional duties of the Assistant Secretary for Finance and Administration; providing for a chief internal auditor; revising the requirements of the Comptroller; providing additional responsibilities of each district secretary; providing for the appointment of a State Public Transportation Administrator and prescribing his responsibilities; revising language with respect to certain contracts; amending s. 337.221, F.S.; providing for a claims settlement process; creating s. 337.162, F.S.; providing requirements with respect to substandard services; amending s. 339.149, F.S.; providing for periodic audits by the Auditor General; requiring an annual report to the Legislature; amending s. 120.53, F.S.; revising language with respect to agencies providing notice of decision under the Administrative Procedure Act; requiring encouraging the participation of disadvantaged business enterprises; amending s. 337.11, F.S.; requiring the department to take certain steps prior to advertisement of work for bid; revising language with respect to the contracting authority of the Department of Transportation; amending s. 337.16, F.S.; revising language with respect to bid disqualification; amending s. 337.175, F.S.; revising language with respect to retainage; amending s. 337.18, F.S.; revising language with respect to liquidated damages; requiring a schedule of liquidated damages in construction contracts; specifying categories; providing penalties for delinquent contractors; amending s. 337.106, F.S.; providing for waiver of professional liability insurance under certain circumstances; requiring approval by the department comptroller; amending s. 73.091, F.S.; conforming a cross-reference to other changes made by the act; creating s. 73.032, F.S.; providing for offer of judgment in eminent domain actions; providing for acceptance, rejection, and withdrawal of the offer of judgment; requiring the person making the offer to make certain construction plans available; amending s. 73.092, F.S.; revising procedures for award of attorney's fees in eminent domain proceedings; requiring that the greatest weight be given to benefits resulting to the client; providing for reduction of attorney's fees to be paid pursuant to a fee agreement in specified circumstances; providing circumstances for limiting attorney's fees after rejection of an offer of judgment; amending s. 74.011, F.S.; deleting obsolete language; amending s. 337.271, F.S.; specifying contents of the invoice for costs in Department of Transportation negotiations for land acquisition; providing for nonbinding mediation of compensation and business damage claims; providing that certain statements used in mediation are not admissible in subsequent proceedings; specifying applicability; providing for a review of duties of M.P.O.'s; providing for a determination of major allocations of public roads between state and local government; amending s. 334.065, F.S.; providing procedures for the submission of an annual budget by the Center for Urban Transportation Research; amending s. 320.20, F.S.; increasing the amount deposited in the State Transportation Trust Fund; amending s. 119.07, F.S.; correcting a reference; amending s. 206.46, F.S.; allocating funds from the State Transportation Trust Fund for public transportation projects; creating s. 311.07, F.S.; creating the Florida Seaport Transportation and Economic Development Trust Fund; providing funding allocations; creating s. 311.09, F.S.; creating the Florida Seaport Transportation and Economic Development Council; providing powers and duties; providing for review and repeal; amending s. 332.004, F.S.; providing definitions; amending s. 332.006, F.S.; providing for separate identification of development projects and discretionary capacity improvement projects in the statewide aviation system plan; permitting expenditure of state aviation funds on road and rail transportation systems which are on airport property; amending s. 332.007, F.S.; requiring that projects be included in a metropolitan planning organization transportation improvement program prior to receipt of funds; providing funding priority for specified airport development projects; authorizing expenditure of funds for projects which provide for construction of an automatic weather observation station; limiting the amount of development project funds an airport may receive if it is also receiving discretionary capacity improvement funds; requiring consistency of aviation projects with airport master plans as a condition for state funding eligibility; authorizing retroactive reimbursement for the nonfederal share of certain land acquisition projects; authorizing participation by the Department of Transportation in the capital cost of eligible public airport and aviation discretionary capacity improvement projects; authorizing expenditure of funds for projects which provide improved airport access subject to approval by the sponsor; limiting the amount of discretionary capacity improvement project funds that a single airport may receive; allowing the department to transfer funds for discretionary capacity improvement projects within the discretionary capacity improvements program; setting the rate of participation by the department in the costs of eligible discretionary capacity improvement projects, including land acquisition projects; amending s. 332.01, F.S.; revising the definition of "airport" to include access to airport facilities; amending s. 333.01, F.S.; providing definitions; amending s. 333.02, F.S.; providing for regulation of land uses in the vicinity of airports; amending s. 333.03, F.S.; providing for adoption of zoning regulations for runway clear zones and airport land use compatibility; creating s. 333.031, F.S.; creating the Airport Safety and Land Use Compatibility Study Commission; providing for a report; amending s. 333.05, F.S.; providing procedures for the adoption of zoning regulations; amending s. 333.06, F.S.; providing reasonableness and independent justification as airport zoning requirements; amending s. 333.07, F.S.; providing for variance requirements; amending s. 337.242, F.S.; providing that movement of people and goods to and from seaports and airports is a transportation use; amending s. 337.25, F.S.; providing for lease of rail corridors to ports; amending s. 339.175, F.S.; revising language with respect to transportation planning organizations; revising membership of metropolitan planning organizations; amending s. 341.031, F.S.; revising definitions for purposes of the Florida Public Transit Act; amending s. 341.041, F.S.; requiring the Department of Transportation to develop and administer state measures concerning public transit systems and including productivity and cost distribution in such measures; revising the measures for certain responsibilities of the department relating to operation of transit systems; amending s. 341.051, F.S.; requiring the department to develop and implement a capital investment policy; creating s. 341.052, F.S.; establishing a public transit block grant program; providing uses for which block grant funds may be expended; providing limitations on use of funds; establishing auditing requirements; allocating 15 percent of the public transit block grant funds to the Transportation Disadvantaged Trust Fund; providing for certain recipients of such allocations; providing limitations on use of funds; creating s. 341.053, F.S.; creating an intermodal development program; requiring the department to administer the program; providing for the distribution of intermodal development funds; providing priorities for funding; creating s. 341.071, F.S.; requiring the establishment of transit development plans consistent with approved local comprehensive

plans; requiring eligible public transit providers to establish productivity and performance measures; requiring certain reports and publication with respect thereto; creating part III of chapter 343, F.S.; creating the "Tampa Bay Commuter Rail Authority Act"; providing definitions; creating the Tampa Bay Commuter Rail Authority; providing for membership; establishing terms of members; providing for filling vacancies; providing powers and duties of the authority; providing for interagency cooperation and contracts; providing for compliance with certain reporting requirements; requiring authority to comply with equal opportunity hiring practices; providing for public and private funding; authorizing issuance of revenue bonds; directing that bonds are not debts or pledges of credit of the state; requiring the authority to develop an annual operating plan; providing for annual review of plan; providing for pledge to bondholders; amending s. 341.325, F.S.; providing for feasibility and planning studies for high-speed rail facilities and for most promising corridors; amending ss. 212.05 and 212.62, F.S.; increasing the rate of the tax on the sale of fuels; revising requirements for calculating the annual adjustment thereof; amending s. 336.026, F.S.; deleting authorization for a local option tax on motor and special fuel for metropolitan transportation systems; providing for an additional tax on motor and special fuel; providing for rates thereof and for annual adjustment; specifying use of the tax; providing for collection, administration, distribution, and enforcement; providing for application of refunds; amending ss. 207.003, 207.005, and 207.026, F.S.; including said additional tax in the rate of the tax on the privilege of operating a commercial motor vehicle; amending s. 72.011, F.S., relating to jurisdiction of the circuit courts, s. 72.041, F.S., relating to enforcement of other states' tax warrants, s. 213.05, F.S., relating to duties of the Department of Revenue, s. 213.21, F.S., relating to exceptions from compromise provisions, and s. 213.29, F.S., relating to penalty for failure to pay tax, to include said additional tax; repealing part VII of chapter 163, F.S., the Metropolitan Transportation Authority Act; amending s. 189.404, F.S., to conform; amending s. 206.9825, F.S.; increasing the excise tax on aviation fuel; amending s. 212.67, F.S.; providing for a credit against the district gas tax to retail dealers for shrinkage; amending s. 212.0606, F.S.; increasing the surcharge on rental of motor vehicles; specifying that the surcharge is subject to all applicable taxes under chapter 212; revising the distribution of the proceeds thereof; amending s. 319.32, F.S.; increasing certain motor vehicle title certificate fees and providing for disposition thereof; providing for an exception; amending ss. 206.877 and 206.879, F.S.; revising provisions relating to annual decal fees for vehicles fueled by alternative fuels and the disposition thereof; amending s. 320.03, F.S.; increasing the fee charged on motor vehicle license registrations and used for purposes of air pollution control and revising the distribution thereof; amending s. 320.072, F.S.; increasing the additional fee on certain initial vehicle registrations and revising the distribution thereof; amending s. 320.14, F.S.; revising provisions which authorize fractional license taxes under certain conditions; amending s. 320.15, F.S.; deleting the requirement to refund certain motor vehicle license taxes; amending s. 320.0609, F.S.; deleting the requirement to refund certain motor vehicle license taxes; providing for the retroactive application of s. 206.87(3)(g), F.S., in certain circumstances; requiring the Florida Transportation Commission to adopt goals by which to measure the performance and productivity of the department; providing procedures; requiring the commission to measure the department's performance on a quarterly basis and to report its findings; providing a penalty for the failure of the department to meet or exceed performance goals; providing exceptions; providing for review and repeal; providing for an improved tentative work program; providing for amending the adopted work program; providing effective dates.

By the Committee on Insurance—

CS for SB 1436—A bill to be entitled An act relating to the State Comprehensive Health Association Act; amending s. 627.648, F.S.; providing a short title; amending s. 627.6482, F.S.; providing definitions; amending s. 627.6484, F.S.; deleting obsolete language; requiring use of a market assistance plan in the application process; amending s. 627.6486, F.S.; requiring the board or administrator to collect data to verify residency; revising certain eligibility requirements; amending s. 627.6488, F.S.; changing the name of the association to the Florida Comprehensive Health Association; specifying membership of the board of directors; providing for appointment; authorizing the board to employ or retain certain persons; requiring the board to implement cost containment measures; allowing the board to design, implement, and contract with preferred provider organizations and health maintenance organizations; requiring the board to make an annual report; requiring audited financial statements; amending s. 627.649, F.S.; providing for an administrator, rather than an administering insurer; amending s. 627.6492, F.S.; revising computation of assessments; amending s. 627.6494, F.S.; revising the assessment cap; amending s. 627.6496, F.S.; correcting a reference; amending s. 627.6498, F.S.; revising the coverage of Medical and other expenses; revising the maximum chargeable premium to policyholders; amending s. 627.601, F.S.; specifying scope of part VI of chapter 627, F.S.; amending s. 627.3515, F.S.; expanding the market assistance plan to include health insurance; providing retroactivity; saving ss. 627.648-627.6498, F.S., from Sunset repeal; providing for review and repeal; providing an effective date.

By the Committees on Appropriations; and Ethics and Elections—

CS for CS for SB 1458—A bill to be entitled An act relating to elections; amending s. 104.271, F.S.; authorizing deposit of penalties into the Elections Commission Trust Fund; amending s. 106.04, F.S.; allowing committees of continuous existence to make contributions through political committees or political parties; providing that fines assessed against committees of continuous existence be placed into the Elections Commission Trust Fund; amending s. 106.07, F.S.; requiring reports by candidates, political committees, and committees of continuous existence; providing procedures; requiring political committees and committees of continuous existence to file reports if they make contributions in a special election; providing that fines assessed for failure to file a report be placed into the Elections Commission Trust Fund; amending s. 106.08, F.S.; authorizing deposition of fines into Elections Commission Trust Fund; amending s. 106.141, F.S.; authorizing deposition of surplus funds into Elections Commission Trust Fund; amending s. 106.19, F.S.; authorizing deposition of civil penalties into Elections Commission Trust Fund; amending s. 106.24, F.S.; providing that the Florida Elections Commission is not subject to the control, supervision, or direction of the Department of State; providing for administrative support, staffing, and budgets of the commission; amending s. 106.25, F.S.; describing procedures for investigations and determinations; allowing staff to dismiss cases where no probable cause is found; authorizing public records once a probable cause determination is made; allowing for appeals of cases dismissed by staff; amending s. 106.26, F.S.; authorizing the Florida Elections Commission to consider appeals of cases staff has dismissed; removing language relating to confidentiality of proceedings; amending s. 106.265, F.S.; authorizing the commission to impose civil penalties on political parties guilty of violating the campaign financing law; authorizing deposition of fines to the Elections Commission Trust Fund; amending s. 106.27, F.S.; subjecting committees of continuous existence and political parties to civil actions, injunctions, and restraining orders; authorizing the commission to bring civil actions; amending s. 106.36, F.S.; clarifying where certain fines are to be deposited; authorizing additional positions for the Division of Elections; providing an appropriation; reviving and readopting ss. 106.24, 106.25, 106.26, 106.265, 106.27, 106.28, 106.29, F.S., notwithstanding their scheduled repeal under the Sundown Act, providing for future repeal and review of ss. 106.24, 106.25, 106.26, 106.265, 106.27, F.S., pursuant to the Sundown Act; providing an effective date.

By the Committee on Commerce and Senators Stuart, Gordon and Bruner—

CS for SB's 1560 and 2366—A bill to be entitled An act relating to economic planning; providing that the state, through the Florida High Technology and Industry Council, establish an economic preparedness plan to assist state government and public and private industries in preparing for reductions in federal military personnel and programs within the state and the resulting changes in federal spending priorities; specifying content of the plan; providing for approval of the plan; requiring submittal of the plan to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of both the Senate and the House by a specified date; providing an effective date.

By the Committee on Commerce and Senator Walker—

CS for SB 1614—A bill to be entitled An act relating to economic development; creating the North Florida Economic Development Advisory Committee to advise and assist the Florida High Technology and Industry Council in preparing a report to the Governor and the Legislature relating to the economy of the northern region of the state; specifying the counties within such region; specifying information that must be included in the report; requiring the council to provide staff and equipment to the advisory committee; providing an appropriation to the council from the General Revenue Fund; providing for expiration of the act; providing an effective date.

By the Committee on Commerce and Senator Forman—

CS for SB 1704—A bill to be entitled An act relating to employee rights; creating s. 448.10, F.S.; requiring certain employers to notify employees of continuation of coverage requirements of group health insurance plans under certain circumstances; amending s. 627.6645, F.S.; providing, with respect to group health insurance, that upon termination for nonpayment of premium, the insurer shall inform the certificateholders of certain rights to conversion; amending s. 760.10, F.S.; providing that it is an unlawful employment practice for an employer to dismiss, or otherwise discriminate against in certain respects, an employee on the basis of a noninterfering illness; defining the term "noninterfering illness"; providing an effective date.

By the Committee on Finance, Taxation and Claims; and Senator Davis—

CS for SB 1708—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending ss. 212.054, 212.055, F.S.; reenacting an indigent care surtax for certain counties; specifying the rate; providing purposes of the surtax; providing for a trust fund; providing for use of the proceeds; providing legislative findings with respect to liens against such funds; providing an effective date.

By the Committee on Commerce and Senators Stuart, Crenshaw and Gardner—

CS for SB 1748—A bill to be entitled An act relating to the Florida Seed Capital Fund; amending s. 159.445, F.S.; authorizing the Florida Seed Capital Fund to invest in limited partnerships meeting certain criteria; increasing the limitation on certain investments; deleting a restriction on making investments; deleting the definition of "small business"; providing for the election of a secretary-treasurer of the board; revising powers and duties of the board; authorizing the board to establish a direct-support organization known as the Florida Enterprise Development Corporation; providing purpose of the organization; requiring a contract between the board and the direct-support organization and specifying contract requirements; requiring the organization to provide an annual financial and compliance audit; providing an exemption from public records requirements; providing for future review and repeal; providing criteria for investments by the board in limited partnerships; providing an effective date.

By the Committees on Finance, Taxation and Claims; Transportation; and Senator Gardner—

CS for CS for SB 2018—A bill to be entitled An act relating to the Seminole County Expressway Authority Law; amending s. 348.953, F.S., relating to the purposes and powers of the authority; amending s. 348.955, F.S., relating to lease-purchase agreements of the authority; providing for legislative approval; providing an effective date.

By the Committees on Appropriations; Economic, Professional and Utility Regulation; Community Affairs; and Senator McPherson—

CS for CS for CS for SB 2076—A bill to be entitled An act relating to energy; amending s. 187.201, F.S.; providing policy in the state comprehensive plan with respect to renewable energy technologies and passive solar design techniques; amending s. 186.801, F.S.; requiring consideration of alternatives to electric utility site plans that increase the use of renewable resources; amending s. 196.175, F.S.; extending the property tax exemption for installation of renewable energy devices; amending s. 366.81, F.S.; requiring the Florida Public Service Commission, in reviewing utility energy efficiency and conservation plans, to consider certain economic effects of specified energy resources and systems; amending s. 366.82, F.S.; authorizing utility conservation plans to include reliance on solar and other renewable technologies; amending s. 163.04, F.S.; providing that deed restrictions or similar covenants or agreements may not prohibit energy devices based on renewable sources; amending s. 489.105, F.S.; defining "solar contractor"; providing that class A air conditioning contractors, class B air conditioning contractors, and mechanical contractors may install, replace, disconnect, or reconnect certain heating, ventilation, and air conditioning control wiring; excepting certain entities from the definition of "contracting"; amending s. 489.113, F.S.; authorizing solar contracting; creating s. 489.134, F.S.; specifying scope of licenses under part I and part II of ch. 489, F.S.; amending s. 489.503, F.S.; deleting certain exemptions from part II of ch. 489, F.S.; amending ss. 489.105, 489.505, F.S.; defining mediation; amending ss. 489.129, 489.533, F.S.; establishing a mediation process; creating s. 489.538, F.S.; specifying scope of licenses under part I and part II of ch. 489, F.S.; providing an effective date.

By the Committee on Finance, Taxation and Claims; and Senator Meek—

CS for SB 2152—A bill to be entitled An act relating to migrant farmworker children and families; providing legislative findings and intent; amending s. 411.202, F.S; including migrant children in the definition of "high-risk child" or "at-risk child"; providing for a demonstration project of health care outreach; providing for reports; providing an effective date.

By the Committee on Insurance and Senator Deratany—

CS for SB 2258—A bill to be entitled An act relating to warranty associations; amending s. 634.041, F.S.; revising criteria for qualification as motor vehicle service agreement companies; creating s. 634.045, F.S.; providing requirements for guarantee agreements; providing for review and repeal; amending s. 634.401, F.S.; revising definitions; creating s. 634.4065, F.S.; providing requirements for guarantee agreements; providing for review and repeal; providing an effective date.

By the Committees on Appropriations and Regulated Industries and Senator Forman—

CS for CS for SB 2488—A bill to be entitled An act relating to lodging and food service establishments; amending s. 20.19, F.S.; requiring the Deputy Secretary for Health of the Department of Health and Rehabilitative Services to establish an Office of Restaurant Programs; providing for supervision and the authority of such office; providing duties of the office; providing for the appointment of district restaurant programs supervisors; providing for authority of such supervisors; requiring the Office of Restaurant Programs to adopt procedures for the emergency closure of food service establishments which pose a threat to public health; amending s. 509.013, F.S.; revising definitions; defining the term "temporary food service event"; amending s. 509.032, F.S.; revising duties of the Division of Hotels and Restaurants of the Department of Business Regulation regarding inspections of licensed establishments; authorizing the division to enter into contracts for purposes of performing such inspections; providing that the division has oversight of inspections performed under contract; revising inspection requirements of the Department of Health and Rehabilitative Services; requiring the department to inspect public lodging establishments under certain circumstances; requiring local county health units to be notified of temporary food service events; amending s. 509.034, F.S.; revising application of ch. 509, F.S.; creating s. 509.035, F.S.; providing for the Division of Hotels and Restaurants of the Department of Business Regulation or the Department of Health and Rehabilitative Services to close licensed establishments due to threats to public health; providing procedures; requiring the Division of Hotels and Restaurants to adopt rules for emergency closure of licensed establishments; creating s. 509.036, F.S.; providing for standardization and testing of public food service inspectors; amending ss. 509.072, 509.091, 509.092, F.S.; providing technical corrections; amending s. 509.101, F.S.; requiring operators of licensed establishments to make certain information available to the public; amending ss. 509.111, 509.141, 509.142, F.S.; providing technical corrections; authorizing operators to eject or refuse service to persons in violation of certain controlled substance laws; providing for the withholding of a portion of advance payments under certain circumstances; amending s. 509.143, F.S.; providing for the detention and arrest of disorderly persons on the premises of food service establishments; amending s. 509.151, F.S.; revising certain penalties; amending s. 509.162, F.S.; providing for the detention and arrest of persons committing theft in licensed establishments; providing penalties; amending s. 509.191, F.S.; clarifying provisions relating to unclaimed property; amending ss. 509.201, 509.2015, F.S.; revising requirements relating to advertisements and notice of rates and surcharges for public lodging establishments; amending s. 509.211, F.S.; providing for notification of the local firesafety authority or the State Fire Marshal of certain violations; providing for administrative sanctions or local enforcement; deleting certain penalties relating to violations of certain safety regulations; amending ss. 509.214, 509.215, F.S.; providing technical corrections; deleting references to time-share units in requirements relating to firesafety for public lodging establishments; providing requirements for obtaining an extension of the deadline for installing an approved sprinkler system; authorizing the State Historic Preservation Officer to make certain determinations relating to exceptions from firesafety rules for historic hotel structures; providing for administrative sanctions; amending s. 509.221, F.S.; revising certain sanitary regulations for licensed establishments; amending s. 509.232, F.S.; requiring schools to notify county health units of certain events which include the sale and preparation of food and beverages; amending ss. 509.241, 509.242,

509.251, 509.261, 509.271, 509.281, F.S.; revising licensing requirements for public lodging and food service establishments; allowing the continuation of administrative proceedings against a license regardless of the expiration of such license; revising the classifications for public lodging establishments; increasing the maximum license fee for food service establishments; providing a maximum annual license fee increase; providing for license fees to include fees collected to fund the Hospitality Education Program; restricting the uses of funds received as satisfaction of administrative fines; authorizing the division to impose additional fines and penalties; requiring the division to post closed-for-operation signs at establishments where the license has been suspended or revoked; creating s. 509.285, F.S.; requiring certain county and municipal officials to assist the division in enforcing ch. 509, F.S.; amending s. 509.291, F.S.; revising the membership of the advisory council to the division; providing for meetings of the council; amending s. 509.292, F.S.; revising certain prohibitions relating to the misrepresentation of food and food products; amending s. 509.302, F.S.; revising duties of the director of education for the lodging and food service industry; amending ss. 509.401, 509.402, 509.403, 509.404, 509.405, 509.406, 509.407, 509.409, 509.411, 509.412, 509.413, 509.414, 509.415, 509.416, 509.417, F.S.; revising provisions relating to an operator's right to lock a guest out of a rental unit and recover the premises; revising provisions authorizing writs of distress, writs of possession, and the sale of distrained property; providing technical corrections; repealing s. 509.303, F.S., relating to the enforcement of certain firesafety regulations; repealing s. 509.410, F.S., relating to writs of execution on certain property; reviving and readopting provisions of ch. 509, F.S., notwithstanding repeals scheduled under the Regulatory Sunset Act; providing for future legislative review and repeal of such provisions; creating s. 721.24, F.S.; providing requirements for fire protection for specified real estate time-share accommodations; requiring the Division of State Fire Marshal of the Department of Insurance to prescribe certain firesafety standards; providing appropriations; providing an effective date.

By the Committee on Commerce and Senator Kiser—

CS for SB 2522—A bill to be entitled An act relating to Florida's Columbus Hemispheric Commission and the 1992 World's Fair; amending chapter 84-232, Laws of Florida, as amended by chapter 88-179, Laws of Florida; increasing duties of the commission; requiring establishment of a state schedule for celebration of the 500th anniversary of the discovery of America; providing for commission sanctioning of official state products, sites, and events; providing for rules; providing for emergency rulemaking by the Department of Commerce; requiring the commission to coordinate activities relating to the state's participation in the 1992 World's Fair with the Department of Commerce and other agencies; requiring the commission to coordinate overall activities of the celebration with state, local, and private agencies; providing for coordination of historical programs by the Department of State; providing for the membership of the commission; providing for vacancies on the commission to remain unfilled; specifying quorum; providing that state funds may not be used in connection with the 500th anniversary of the discovery of America without seeking the approval of the commission; providing for the design and issuance of "Florida - The Quincentennial State" license plates; providing additional fees for such license plates; providing transfer of revenue to the Quincentennial Trust Fund; creating the Quincentennial Trust Fund; providing for the use of license fees; providing appropriations; providing an effective date.

By the Committee on Commerce and Senators Stuart, Meek, Casas, Davis, Forman and Woodson-Howard—

CS for SB 2706—A bill to be entitled An act relating to economic development; creating s. 289.001, F.S.; creating the Florida Strategic Fund Act of 1990; creating s. 289.002, F.S.; describing the purposes of the act; amending s. 289.011, F.S.; providing definitions; amending s. 289.021, F.S.; providing for the incorporation of business and industrial development corporations; creating s. 289.022, F.S.; providing procedures and requirements for licensing of such corporations and for surrender of licenses; creating s. 289.023, F.S.; providing for investment in such corporations by the Florida Strategic Fund Board and providing requirements with respect thereto; creating s. 289.024, F.S.; providing special requirements relating to minority business and industrial development corporations; creating s. 289.025, F.S.; providing for fees; creating s. 289.026, F.S.; providing requirements for the transaction of business by business and industrial development corporations; providing requirements relating to budgets, investments, and extensions of credit; providing for application of penalties relating to usury; providing requirements relating to control of a business firm; prohibiting certain self-dealing; providing prohibitions relating to transactions involving affiliates; creating s. 289.027, F.S.; providing for the operations of such corporations; creating s. 289.028, F.S.; providing requirements relating to recordkeeping, audits, and reports; creating s. 289.029, F.S.; requiring an annual report; creating s. 289.032, F.S.; providing procedures and requirements for mergers, acquisitions, and consolidations; creating s. 289.033, F.S.; specifying unlawful activities and providing a penalty; amending s. 289.121, F.S.; requiring periodic examinations and reports of such corporations and providing requirements with respect thereto; creating s. 289.122, F.S.; creating the Florida Strategic Fund Board; requiring board members to file public disclosure of financial interests; creating s. 289.123, F.S.; providing powers of the board; creating s. 289.124, F.S.; providing for seed capital investments; creating s. 289.125, F.S.; providing for management and technical assistance by the board; providing for a private enterprise assistance account; providing for loans; creating s. 289.126, F.S.; creating a BIDCO Trust Fund; amending s. 289.151, F.S.; providing for dissolution of such corporations; amending s. 289.181, F.S.; providing for tax exemptions and credits; amending s. 289.191, F.S.; providing for occupational license taxes; amending s. 289.201, F.S.; providing for such corporations' fiscal year; amending ss. 220.183, 624.5105, F.S., relating to community contribution tax credits against the corporate income tax and insurance premium taxes; removing the Florida Industrial Development Corporation as an "eligible sponsor"; amending s. 658.67, F.S.; providing for investments by banks in such corporations; repealing ss. 289.031, 289.041, 289.051, 289.061, 289.071, 289.081, 289.091, 289.101, 289.111, 289.131, 289.141, 289.161, 289.171, F.S., relating to Florida Industrial Development Corporations and their powers, financial transactions, membership, and conduct of business; repealing s. 159.445, F.S., which creates the Florida Seed Capital Fund, and transferring moneys therein to the BIDCO Trust Fund; providing appropriations; providing an effective date.

By the Committee on Insurance and Senator Weinstein—

CS for SB 2794—A bill to be entitled An act relating to health insurance; amending s. 627.646, F.S.; specifying required coverage in policies converted from group policies; specifying applicability; amending s. 627.6645, F.S.; requiring a refund of unearned premium; amending s. 627.667, F.S.; requiring extension of benefits with respect to specified coverages; amending s. 627.6675, F.S.; limiting applicability of provision requiring convertibility of group policies; specifying benefits required in such converted policies; reenacting ss. 627.6515(2)(c), 627.6651, 627.9303(7), F.S., relating to out-of-state groups, liability of prior insurer, and life maintenance contracts, to incorporate the amendments to ss. 627.667, 627.6675, F.S., in references thereto; renumbering s. 627.626, F.S., as s. 627 6085, F.S., to exclude said section from the operation of s. 627.618, F.S.; providing an effective date.

By the Committee on Insurance and Senator Weinstein—

CS for SB 2902—A bill to be entitled An act relating to insurance; creating part XXII, ch. 627, F.S.; providing applicability to mortgage insurance in connection with consolidation; providing definitions; providing circumstances under which an insurer may participate in a consolidation of mortgage insurance; specifying content of group certificates and individual policies delivered to insured debtors; prohibiting certain clauses in such policies; providing for conversion to decreasing term policies; requiring notice of intent to conduct a consolidation; providing for group-to-group conversions; requiring disclosure of specified information; exempting group-to-group consolidations from Department of Insurance rules relating to replacement of existing insurance; requiring filing of copies of forms in advance of use; providing for review and repeal; providing an effective date.

By the Committee on Insurance and Senator Weinstein—

CS for SB 2982—A bill to be entitled An act relating to Medicare supplement policies; amending s. 627.673, F.S.; providing for designation of such policies; amending s. 627.6736, F.S., relating to filing requirements for out-of-state group policies, to conform language; creating s. 627.6737, F.S.; providing for reporting of multiple policies; amending s. 627.674, F.S.; revising minimum standards for Medicare supplement policies; creating s. 627.6741, F.S.; providing requirements for cancellation, nonrenewal, and replacement of such policies; creating s. 627.6742, F.S.; providing for restrictions on compensation arrangements between Medicare supplement insurers and agents pursuant to rules of the Department of Insurance; creating s. 627.6743, F.S.; providing standards for marketing; creating s. 627.6744, F.S.; requiring agents to determine appropriateness of a purchase or replacement; providing an effective date.

By the Committee on Agriculture and Senator Thurman—

CS for SB 3034—A bill to be entitled An act relating to citrus; amending s. 602.055, F.S.; prohibiting the Office of Citrus Canker Claims from paying certain claims before a specified date; amending s. 601.282, F.S.; revising the percentage of proceeds from excise taxes transferred to the Citrus Canker Eradication Trust Fund and the Citrus Canker Compensation Trust Fund; providing appropriations; providing for retroactive application; providing an effective date.

By the Committee on Insurance and Senators Jennings and Brown—

CS for SB 3060—A bill to be entitled An act relating to insurance; amending s. 627.215, F.S.; providing an alternative basis for calculation of excess profits for specified forms of insurance; requiring that losses be reported using the basis for which premiums were developed under certain circumstances; revising excess profits calculations; providing retroactivity; providing an effective date.

By the Committee on Finance, Taxation and Claims; and Senator Forman—

CS for SB 3062—A bill to be entitled An act relating to disposal of solid, special, or biohazardous waste; amending ss. 125.01, 166.021, F.S.; authorizing counties and municipalities to require persons to demonstrate the existence of a plan or contract for disposal of such waste; providing an effective date.

By the Committee on Finance, Taxation and Claims; and Senator Stuart—

CS for SB 3068—A bill to be entitled An act relating to taxation; amending ss. 220.13, 220.03, F.S.; providing tax incentives to encourage the export of Florida agricultural products to East European Emerging Democracies in order to promote Florida agricultural business ventures and to facilitate the reintegration of such countries into the community of democratic nations; amending ss. 403.718, 403.7185, F.S.; providing that the fees on the retail sale of motor vehicle tires and lead-acid batteries are not subject to taxes imposed under part I of ch. 212, F.S.; providing that such fees shall be stated separately on the invoice or other sales document; requiring payment of such fees monthly; increasing the fee on lead-acid batteries; providing for disposition; providing an effective date.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

VETOED BILL

Honorable Bob Crawford May 24, 1990
President of the Senate

Dear President Crawford:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I do hereby withhold my approval and transmit to you with my objections, Senate Bill 3106, enacted by the 22nd Regular Session of the Legislature since the Constitution of 1968, during the Regular Session of 1990, and entitled:

An act relating to Santa Rosa Island; amending ss. 7.17, 7.55, F.S.; redefining the boundaries of Escambia and Santa Rosa Counties; providing that Navarre Beach shall be included in the boundary of Santa Rosa County; providing for Santa Rosa County to assume a portion of the liabilities of Escambia County; providing for the Santa Rosa County School District to educate certain children living in that portion of Santa Rosa Island in Escambia County; prohibiting the construction of a navigable waterway or channel on certain parts of Santa Rosa Island without approval of the county commissioners of both Escambia County and Santa Rosa County; prescribing requirements with respect to the density level on that portion of Santa Rosa Island leased by Escambia County to Santa Rosa County; providing a severability section; providing the current coastal construction line on that portion of Santa Rosa Island leased to Santa Rosa County remains in full force and effect; providing all current licenses issued by the state for establishments located on that portion of Santa Rosa Island leased to Santa Rosa County shall remain in full force and effect; providing an effective date.

While there are legitimate concerns in Santa Rosa County regarding educational opportunities for children, police protection for the current residents of Navarre Beach and the government services and infrastructure that the residents of this area are entitled to, as are the residents of all parts of Florida, each of these items is only a smaller component of what should be a well-reasoned local comprehensive plan.

There are available options under current law to resolve these areas of difficulty through intergovernmental coordination, and local leaders should endeavor to do so. The more radical approach of this legislation is not the answer. In fact, the solution offered by this legislation has the potential to compound problems and make them worse.

At a time when both of the counties involved are in the process of completing their compliance with the Growth Management Act, this legislation has the potential to disrupt the standards of good planning for both jurisdictions. I have previously said that a local adjustment to the growth management process in this fashion is an unwise precedent and one which could exacerbate the serious problem of urban sprawl. I cannot permit this to occur.

The individual needs of the residents of Navarre Beach—to provide for their safety, for the education of their children and for the services and infrastructure to which they are entitled—can be accomplished through other means. I would expect and would encourage this to occur. In the event that it cannot be accommodated in a reasonable manner, and after the comprehensive plans for each jurisdiction have been approved under the standards established by the Growth Management Act, the more radical alternatives represented by this Legislature might need to be reconsidered. The preferable alternative is to see these matters through the foresight and dialogue of responsible local leaders.

The residents of this area have not had a formalized opportunity to comment on this change in jurisdiction. Community input on such a substantial change is essential to representative government. To assist the parties in reaching a mutual settlement of these issues, I will make a member of my staff available to provide any assistance necessary.

Sincerely,
Bob Martinez
Governor

The bill, together with the Governor's objections thereto, was referred to the Committee on Rules and Calendar.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

First Reading

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed CS for HB's 39 and 381, CS for HB 59, HB 217, CS for HB 221, CS for HB 229, CS for HB 271, CS for HB 279, CS for HB 435, CS for HB 457, HB 505, CS for HB 711, CS for HB 713, CS for CS for HB 833 and HB 3635, HB 983, CS for HB 1245, HB 1273, CS for HB 1287, CS for HB 1357, CS for CS for HB 1413, HB 1467, HB 1535, CS for HB 1571, CS for HB's 1575 and 1975, CS for HB 1637, CS for HB 1657, CS for HB 1679, CS for HB 1725, CS for HB 1773, CS for HB 1781, CS for HB 2101, CS for HB 2185, CS for HB 2193, HB 2221, CS for HB 2293, HB 2357, HB 2383, HB 2409, HB 2549, HB 2611, CS for HB 2705, CS for HB 2765, HB 2815, HB 3061, CS for HB 3137, CS for HB 3143, HB 3171, HB 3193, HB 3231, HB 3235, HB 3243, HB 3261, HB 3269, HB 3283, HB 3285, HB 3307, HB 3319, HB 3395, HB 3415, HB 3417, CS for HB 3419, HB 3445, HB 3557, HB 3585, HB 3595, HB 3607, HB 3611, HB 3667, HB 3671, HB 3699, HB 3729, has passed as amended HB 231, HB 315, HB 353, CS for HB 489, CS for HB 607, CS for CS for HB 619, HB 879, CS for HB 973, CS for HB's 1011 and 2419, CS for HB 1023, CS for CS for CS for HB 1209, HB 1221, CS for HB 1423, CS for HB 1443, CS for CS for HB 1453, CS for HB 1481, CS for HB 1531, CS for HB 1737, CS for CS for CS for HB 1739, CS for HB 1871, CS for HB 1997, CS for HB 2047, CS for HB 2081, CS for HB 2135, CS for HB 2309, HB 2359, HB 2397, HB 2467, CS for HB 2503, CS for HB 2539, HB 2691, CS for HB 2711, CS for HB 2801, CS for HB 2833, HB 2939, CS for HB 2987, CS for HB 3009, HB 3117, CS for HB 3167, HB 3229, CS for HB 3247, HB 3317, HB 3359, HB 3389, HB 3391, HB 3403, HB 3423, HB 3467, CS for CS for HB 3489, HB 3577, CS for HB 3641, CS for HB 3669, CS for CS for HB 3681, CS for HB's 3809 and CS for HB's 2671, 1099, 1499, 1611, 2265, 2871, 2957, 3007 and 3135; has adopted HCR 3581 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By the Committee on Judiciary and Representative Langton and others—

CS for HB's 39 and 381—A bill to be entitled An act relating to grandparents rights; creating s. 752.001, F.S.; providing a definition; amending s. 752.01, F.S.; providing that it is mandatory, rather than optional, for a court to award visitation rights to grandparents in specified circumstances; providing for grandparental visitation rights when the grandchild is born out of wedlock; providing criteria to determine the best interest of the minor child; creating s. 752.015, F.S.; providing for mediation of visitation disputes; amending s. 752.07, F.S.; clarifying language with respect to the affect of adoption on the right of visitation; creating s. 39.4105, F.S.; providing visitation rights with a grandchild who has been adjudicated dependent; providing criteria for such visitation; prohibiting restrictions on certain displays of affection; providing for future termination of visitation rights; providing exceptions; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By the Committee on Corrections and Representatives Goode and Roberts—

CS for HB 59—A bill to be entitled An act relating to the correctional system; amending s. 944.605, F.S.; providing for notification if so requested upon approval to participate in the community work release program; amending s. 947.177, F.S.; requiring specified notification prior to any anticipated release and providing an exception; providing an effective date.

—was referred to the Committees on Corrections, Probation and Parole; and Appropriations.

By Representative Crotty and others—

HB 217—A bill to be entitled An act relating to mental health; amending s. 394.875, F.S.; providing requirements for a crisis stabilization unit for minors located on the same premises as a unit for adults; requiring the Department of Health and Rehabilitative Services to adopt rules for construction, staffing, licensure, and operation of units for minors; providing the amount a crisis stabilization unit may exceed its licensed capacity; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; and Appropriations.

By the Committee on Highway Safety and Construction; and Representatives Stone and Sansom—

CS for HB 221—A bill to be entitled An act relating to bicycle ways; amending s. 335.065, F.S.; authorizing construction of bicycle ways along certain causeways; providing for maintenance; providing for actions for damages; providing an effective date.

—was referred to the Committee on Transportation.

By the Committee on Health and Rehabilitative Services; and Representative Bloom and others—

CS for HB 229—A bill to be entitled An act relating to epilepsy; amending s. 385.207, F.S.; providing that revenues for implementation of epilepsy prevention and education programs shall be derived pursuant to the provisions of s. 318.18(11), F.S.; creating the Epilepsy Services Trust Fund and providing for investment of funds; providing for rules; amending s. 318.18, F.S.; imposing an additional surcharge on certain civil penalties; providing an effective date.

—was referred to the Committees on Health Care; Finance, Taxation and Claims; and Appropriations.

By the Committee on Health Care and Representatives Rehm and Hanson—

CS for HB 271—A bill to be entitled An act relating to medical records; amending s. 406.11, F.S.; authorizing a district medical examiner to demand records he deems necessary to his investigation; amending s. 406.12, F.S.; specifying records that must be made available in connection with a death investigation; providing penalties; providing that documents or records made confidential by statute remain confidential when received by a medical examiner; providing immunity from civil liability for persons who provide certain records to a medical examiner; providing an effective date.

—was referred to the Committee on Judiciary-Criminal.

By the Committee on Highway Safety and Construction; and Representative C. Smith—

CS for HB 279—A bill to be entitled An act relating to commercial motor vehicles; amending s. 316.3027, F.S.; requiring display of the vehicle owner's telephone number; requiring display of certain information on the rear of the vehicle; providing exceptions; providing that the use of a company logo complies with identification requirements only if a unit number is displayed; reenacting s. 316.3025(3)(a)7., F.S., for the purpose of incorporating the amendment to s. 316.3027, F.S., in a reference thereto; providing penalties; providing an effective date.

—was referred to the Committee on Transportation.

By the Committee on Agriculture and Representative Campbell and others—

CS for HB 435—A bill to be entitled An act relating to aquaculture; amending s. 1.01, F.S.; including "aquaculture" within terms related to agriculture, for certain purposes; amending s. 597.002, F.S.; specifying use of certain funds appropriated for aquacultural research; amending s. 597.0021, F.S.; expanding legislative intent of the Florida Aquaculture Policy Act; amending s. 597.005, F.S.; modifying composition of the Aquaculture Review Council; providing for quarterly meetings and election of an industry representative to the Aquaculture Interagency Coordinating Council; revising responsibilities; amending s. 597.006, F.S.; modifying composition of the interagency coordinating council; providing for quarterly meetings and election of officers; revising purpose and responsibilities; creating s. 597.007, F.S.; providing for delegation of permitting of aquaculture facilities from the Department of Environmental Regulation to the water management districts; providing duty of the Institute of Food and Agricultural Sciences; providing timeframes; amending s. 812.014, F.S.; expanding a penalty for theft of livestock to include theft of any commercially farmed animal; providing an effective date.

—was referred to the Committee on Agriculture.

By the Committee on Employee and Management Relations; and Representative Ireland—

CS for HB 457—A bill to be entitled An act relating to retirement; creating s. 121.45, F.S., the "Interstate Pension Portability Act"; providing purpose and findings; providing for establishment of interstate compacts; providing an effective date.

—was referred to the Committees on Personnel, Retirement and Collective Bargaining; and Appropriations.

By Representative Tobin—

HB 505—A bill to be entitled An act relating to insurance; amending s. 627.420, F.S.; requiring binders for specified types of insurance to contain a notice that quoted premiums are estimates subject to review by the insurer; reenacting ss. 624.488(4), 627.401(3), and 629.518, F.S., relating to applicability of various provisions of the Insurance Code to commercial self-insurance funds, wet marine and transportation insurance, and limited reciprocal insurers, to incorporate the amendment to s. 627.420, F.S., in references thereto; providing an effective date.

—was referred to the Committee on Insurance.

By the Committee on Insurance and Representative Mims—

CS for HB 711—A bill to be entitled An act relating to insurance; creating s. 624 216, F.S.; providing for notice to policyholders if certain policies are not covered under guaranty associations; providing for review and repeal; providing exceptions; providing an effective date.

—was referred to the Committee on Insurance.

By the Committee on Health and Rehabilitative Services; and Representative Sindler and others—

CS for HB 713—A bill to be entitled An act relating to child protective investigations; amending s. 415.505, F.S.; requiring the Department of Health and Rehabilitative Services to provide medical records relating to a child's injuries to the appropriate state attorney and law enforcement agency in specified circumstances; reenacting s. 39.423(4), F.S., relating to intake, to incorporate the amendment to s. 415.505, F.S., in a reference thereto; providing an effective date.

—was referred to the Committee on Health and Rehabilitative Services.

By the Committees on Rules and Calendar; and Corrections; and Representative Trammell and others—

CS for CS for HB 833 and HB 3635—A bill to be entitled An act relating to the criminal justice and corrections system; creating s. 775.0847, F.S.; providing felony drug abuser and habitual felony drug offender definitions, criteria, procedures, and penalties, including placement of felony drug abusers in drug punishment programs, and providing for extended term sentences for habitual felony drug offenders; amending s. 893.13, F.S.; itemizing controlled substances violations; providing felony drug abuser and habitual felony drug offender penalties and, with the exception of selling controlled substances near a school, deleting references to habitual felony offender penalties; amending s. 893.15, F.S., relating to rehabilitation, to conform; amending chapter 953, F.S.; creating the "Florida Drug Punishment Act of 1990" and providing findings, purpose, and intent; providing definitions for the drug punishment program; providing drug offender eligibility criteria; providing standards and procedures; providing drug punishment program goals and comprehensive assessment services and rehabilitative punishment and treatment components; providing for initial screening of drug offenders for program eligibility and providing for a drug punishment treatment community comprehensive assessment program; requiring consent to treatment and release of records as a condition of drug punishment probation; providing for drug punishment program financial eligibility, funds, and community-based options; requiring accounting, auditing, and specified compliance; providing for immunity from civil and criminal liability; providing for program records and recordkeeping; requiring implementation of a statewide tracking system; providing a drug punishment program for drug offenders, through designated treatment communities within the judicial circuits and specified treatment phases; requiring the Department of Corrections to contract with a statewide drug punishment program manager; providing for discipline in and termination from treatment programs and authorizing sentencing of an offender terminated from the drug punishment program; providing a core treatment program; creating the Drug Offender Advisory Board and providing membership and duties, including drug punishment program oversight; providing for a quality control program conducted by the statewide program manager; providing an evaluation program; providing for financial considerations; amending ss. 921.187, 944.026, 948.03, and 948.06, F.S., relating to disposition and sentencing, community-based facilities and programs, terms and conditions of probation, and probation violation and revocation, to conform; requiring the Department of Corrections to provide procedure for probation officer referrals of drug offenders to program comprehensive assessments; creating s. 775.0844, F.S.; providing penalties for habitual violent felony offenders; providing definitions and criteria; delineating violent felonies; providing procedure; providing for extended term sentences; amending s. 775.0842, F.S., relating to career criminal prosecutions, to conform, and reenacting s. 775.0843(5), F.S., relating to policy for career criminal cases, to incorporate said amendment in a reference thereto; amending ss. 775.0875, 782.04, 782.07, 784.021, 784.045, 787.01, 790.161, 790.1615, 790.19, 794.011, 794.041, 800.04, 806.01, 806.031, 806.111, 810.02, 812.13, 827.03, 827.071, and 843.01, F.S., relating to unlawful taking or use of a law enforcement officer's firearm, murder, manslaughter, aggravated assault, aggravated battery, kidnapping, unlawful use of a destructive device, unlawful discharge of a destructive device or bomb, unlawful shooting or throwing of a deadly missile, sexual battery, sexual activity with a child by a person in familial or custodial authority, lewdness in the presence of a child, arson, arson resulting in bodily harm, unlawful use of a fire bomb, burglary, robbery, aggravated child abuse, inducing or promoting sexual performance by a child, and resisting an officer with violence; delineating offenses as violent felonies for purposes of habitual violent felony offender penalties and deleting reference to nonviolent habitual felony offender penalties; amending s. 316.545, F.S., relating to motor fuel tax enforcement, to conform; amending s. 893.135, F.S.; providing for habitual violent felony offender sentencing for trafficking violations; amending ss. 921.001, 921.18, 944.277, 944.291, 944.598, 947.135, 947.1405, and 947.146, F.S., relating to the Sentencing Commission, indeterminate sentences for noncapital felonies, provisional credits, prisoners released by reason of gain-time or provisional credits, emergency release of prisoners, mutual participation programs, conditional release programs, and the Control Release Authority; revising provisions relating to the sentencing, incarceration, and release of habitual offenders, to provide for substantially enhanced terms of imprisonment for habitual violent felony offenders and to delete such provision with respect to nonviolent felony offenses committed after the effective date of the act; repealing s. 775.084, F.S., relating to habitual felony offenders and habitual violent felony offenders; directing that references to s. 775.084, F.S., appearing in sections of the Florida Statutes not amended in the act be deleted; repealing ss. 953.01, 953.02, 953.21, 953.22, 953.23, 953.24, 953.31, 953.32, 953.33, 953.34, 953.41, 953.61, and 953.62, F.S., relating to the STOP program; providing effective dates.

—was referred to the Committees on Corrections, Probation and Parole; Judiciary-Criminal; and Appropriations.

By Representative Clements—

HB 983—A bill to be entitled An act relating to health insurance; amending ss. 627.651 and 627.6515, F.S.; applying s. 627.419, F.S., relating to construction of health insurance policies, to group health insurance, self-insurance providing health coverage, and out-of-state groups; providing an effective date.

—was referred to the Committees on Insurance and Appropriations.

By the Committee on Finance and Taxation; and Representative Troxler—

CS for HB 1245—A bill to be entitled An act relating to ad valorem tax exemptions; amending s. 196.101, F.S.; increasing the income limitation required to qualify for the exemption of the homestead of certain disabled persons; providing an effective date.

—was referred to the Committees on Finance, Taxation and Claims; and Appropriations.

By Representative Holland and others—

HB 1273—A bill to be entitled An act relating to medical examiners; amending s. 112.3145, F.S.; requiring district medical examiners and associate medical examiners to file disclosure of financial interests and clients represented before agencies; amending s. 406.06, F.S.; specifying that district medical examiners and associate medical examiners are public officers for purposes of s. 112.313, F.S., and the standards of conduct prescribed thereunder; providing an effective date.

—was referred to the Committee on Ethics and Elections.

By the Committee on Education and Representative Mortham—

CS for HB 1287—A bill to be entitled An act relating to education; amending s. 232.246, F.S.; revising credit requirements for high school graduation; amending s. 236.081, F.S.; conforming a cross reference; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By the Committee on Judiciary and Representative Figg—

CS for HB 1357—A bill to be entitled An act relating to costs of land acquisition; amending s. 73.091, F.S.; conforming a cross reference to other changes made by the act; creating s. 73.032, F.S.; providing for offer of judgment in eminent domain actions; providing for acceptance, rejection, and withdrawal of the offer of judgment; requiring the person making the offer to make certain construction plans available; amending s. 73.092, F.S.; revising procedures for award of attorney's fees in eminent domain proceedings; requiring that the greatest weight be given to benefits resulting to the client; providing for reduction of attorney's fees to be paid pursuant to a fee agreement in specified circumstances; providing circumstances for limiting attorney's fees after rejection of an offer of judgment; amending s. 74.011, F.S.; deleting an obsolete reference; amending s. 337.271, F.S.; specifying contents of the invoice for costs in Department of Transportation negotiations for land acquisition; providing for nonbinding mediation of compensation and business damage claims; providing that certain statements used in mediation are not admissible in subsequent proceedings; specifying applicability; providing an effective date.

—was referred to the Committees on Judiciary-Civil, Transportation and Appropriations.

By the Committees on Appropriations and Governmental Operations; and Representative Ascherl—

CS for CS for HB 1413—A bill to be entitled An act relating to the Treasurer; amending s. 18.10, F.S.; authorizing the Treasurer to invest in additional securities; creating s. 18.103, F.S.; providing for safekeeping services of the Treasurer; providing fees; creating s. 18.104, F.S.; creating the Treasury Cash Deposit Trust Fund; amending s. 18.125, F.S.; authorizing the Treasurer to invest funds of any statutorily created board,

association, or entity; amending s. 280.02, F.S.; redefining the term "average daily balance" for the purposes of the Florida Security for Public Deposits Act; amending s. 280.03, F.S.; providing that public deposits held outside the country are exempt from the requirements and protection of the act; amending s. 280.04, F.S.; revising language with respect to collateral for public deposits; amending s. 280.05, F.S.; providing an extra duty of the Treasurer; authorizing the Treasurer to allow electronic filings; amending s. 280.10, F.S.; adding language with respect to mergers or acquisitions; providing for responsibility for deposit with respect to certain qualified public depositors which sell or dispose of its branches; amending s. 280.11, F.S.; providing language with respect to public depositories which are disqualified from receiving or retaining deposits; repealing ss. 111.02, 111.03, and 111.04, F.S., relating to the responsibility of the Treasurer with respect to certain perquisites accruing from the administration of certain state officers and the reporting, furnishing, and accounting thereof and a penalty for noncompliance; providing an effective date.

—was referred to the Committees on Governmental Operations; Finance, Taxation and Claims; and Appropriations.

By Representative Geller—

HB 1467—A bill to be entitled An act relating to interpreter services for deaf persons; amending s. 90.6063, F.S.; providing that an interpreter appointed by the court for a deaf person in a civil matter is entitled to a reasonable fee for his services and to travel expenses, to be paid from general county funds; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By Representative Graham—

HB 1535—A bill to be entitled An act relating to the "911" emergency telephone number; amending s. 365.171, F.S.; extending the authority of a county to impose a fee upon local telephone exchange subscribers for payment of specified equipment and service to also include payment for construction, expansion, or renovation of a "911" dispatch center; excluding approved capital improvement funds from fee adjustment provisions, and reenacting s. 427.503(9), F.S., relating to special communications services, to incorporate said amendment in a reference thereto; providing an effective date.

—was referred to the Committees on Economic, Professional and Utility Regulation; Finance, Taxation and Claims; and Appropriations.

By the Committee on Education and Representatives Mortham and Safley—

CS for HB 1571—A bill to be entitled An act relating to education; amending s. 229.602, F.S., relating to private sector and education partnerships; providing for challenge grants to school district direct-support organizations and education foundations; requiring evaluations of challenge grant projects; providing for the distribution of funds for the Mathematics and Science Partnership Program to direct-support organizations and education foundations; requiring evaluations of mathematics and science partnership programs; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By the Committee on Insurance and Representative Deutsch and others—

CS for HB's 1575 and 1975—A bill to be entitled An act relating to Medicare supplement policies; amending s. 627.673, F.S.; providing for designation of such policies; amending s. 627.6736, F.S., relating to filing requirements for out-of-state group policies, to conform language; creating s. 627.6737, F.S.; providing for reporting of multiple policies; amending s. 627.674, F.S.; revising minimum standards for Medicare supplement policies; creating s. 627.6741, F.S.; providing requirements for cancellation, nonrenewal, and replacement of such policies; creating s. 627.6742, F.S.; providing for restrictions on compensation arrangements between Medicare supplement insurers and agents pursuant to rules of the Department of Insurance; creating s. 627.6743, F.S.; providing standards for marketing; creating s. 627.6744, F.S.; requiring agents to determine appropriateness of a purchase or replacement; providing an effective date.

—was referred to the Committees on Insurance and Health Care.

By the Committee on Higher Education and Representative Nergard—

CS for HB 1637—A bill to be entitled An act relating to postsecondary education; amending s. 240.408, F.S.; providing for the award of scholarships to nonpublic school students from the Challenger Astronauts Memorial Undergraduate Scholarship Program; providing an effective date.

—was referred to the Committees on Transportation; Finance, Taxation and Claims; and Appropriations.

By the Committee on Insurance and Representative Cosgrove—

CS for HB 1657—A bill to be entitled An act relating to insurance; creating part XXII, ch. 627, F.S.; providing applicability to mortgage insurance in connection with consolidation; providing definitions; providing circumstances under which an insurer may participate in a consolidation of mortgage insurance; specifying content of group certificates and individual policies delivered to insured debtors; prohibiting certain clauses in such policies; providing for conversion to decreasing term policies; requiring notice of intent to conduct a consolidation; providing for group-to-group conversions; requiring disclosure of specified information; exempting group-to-group consolidations from Department of Insurance rules relating to replacement of existing insurance; requiring filing of copies of forms in advance of use; providing for review and repeal; providing an effective date.

—was referred to the Committee on Insurance.

By the Committee on Highway Safety and Construction; and Representatives King and Bloom—

CS for HB 1679—A bill to be entitled An act relating to the Department of Highway Safety and Motor Vehicles; amending s. 322.051, F.S.; authorizing the department to issue identification cards without regard to whether the applicant is a licensed driver; providing that, with respect to certain cardholders, such cards expire only upon the death of the holder or cancellation by the department; providing effective dates.

—was referred to the Committees on Transportation; Finance, Taxation and Claims; and Appropriations.

By the Committee on Natural Resources and Representative Nergard and others—

CS for HB 1725—A bill to be entitled An act relating to the Savannas State Reserve; providing definitions; specifying duties of the Department of Natural Resources; providing that unauthorized entry into the reserve is prima facie evidence of intent to violate the act; prohibiting the use of vehicles or all terrain vehicles within the preserve; prohibiting the possession of specified weapons within the preserve; providing exceptions; providing penalties; providing an effective date.

—was referred to the Committee on Natural Resources and Conservation.

By the Committee on Health Care and Representatives C. F. Jones and Gordon—

CS for HB 1773—A bill to be entitled An act relating to health care utilization review; creating s. 395.0172, F.S.; providing legislative intent; providing definitions; providing for registration of private review agents; providing registration requirements; providing for fees; providing an adminstrative penalty; providing for injunction; prohibiting contracting with unlicensed review agents; providing exemptions; requiring certain compliance by hospitals; providing an effective date.

—was referred to the Committees on Health Care; Finance, Taxation and Claims; and Appropriations.

By the Committee on Insurance and Representatives Graham and Davis—

CS for HB 1781—A bill to be entitled An act relating to insurance; amending s. 624.411, F.S.; granting the Department of Insurance discretionary authority to require certain deposits from foreign insurers; reenacting s. 627.776(1)(e), F.S., relating to title insurers, to incorporate the amendment to s. 624.411, F.S., in a reference thereto; providing an effective date.

—was referred to the Committee on Insurance.

By the Committee on Insurance and Representative Lippman and others—

CS for HB 2101—A bill to be entitled An act relating to health insurance; amending s. 627.6375, F.S.; requiring insurers offering individual health insurance policies who enter into contracts for alternative rates of payment to also contract with optometrists, podiatrists, and chiropractors; amending s. 627.6695, F.S.; requiring insurers offering group health insurance policies who enter into contracts for alternative rates of payment to also contract with optometrists, podiatrists, and chiropractors; providing an effective date.

—was referred to the Committees on Insurance and Appropriations.

By the Committee on Agriculture and Representatives Boyd and Harris—

CS for HB 2185—A bill to be entitled An act relating to health studios; amending s. 501.012, F.S., repealing subsections (2)-(13) thereof, and creating ss. 501.0125, 501.013, 501.014, 501.015, 501.016, 501.017, 501.018, and 501.019, F.S.; revising and restructuring provisions relating to the regulation of health studios; providing definitions; providing for exemption of certain businesses and activities; providing powers and duties of the Department of Agriculture and Consumer Services; providing registration, fee, and security requirements; specifying contractual provisions for the sale of services; providing requirements for change of ownership or location; providing penalties; providing applicability; providing an effective date.

—was referred to the Committees on Economic, Professional and Utility Regulation; and Appropriations.

By the Committee on Natural Resources and Representative Boyd and others—

CS for HB 2193—A bill to be entitled An act relating to saltwater conservation; amending s. 370.01, F.S.; revising the definition of the term "restricted species" for purposes of provisions relating to saltwater fisheries; amending s. 370.06, F.S.; revising criteria for the issuance of restricted species endorsement on a saltwater products license; specifying exceptions from such criteria for issuance of the endorsement; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; and Finance, Taxation and Claims.

By Representative C. F. Jones—

HB 2221—A bill to be entitled An act relating to codification of the Laws of Florida; directing the Joint Legislative Management Committee to contract for a codification of the special and local laws and general laws of local application of the state; providing for publication and distribution of the codification; providing an effective date.

—was referred to the Committees on Governmental Operations; Rules and Calendar; and Appropriations.

By the Committee on Insurance and Representatives Ritchie and Shelley—

CS for HB 2293—A bill to be entitled An act relating to fire prevention and control; amending s. 633.01, F.S.; repealing a provision that requires the State Fire Marshal to regulate the storage, sale, and use of certain explosive and flammable materials; repealing a provision that requires the State Fire Marshal and the Department of Education to jointly prepare rules for safety inspections of district school facilities and community college facilities; amending s. 633.022, F.S.; providing that uniform firesafety standards apply only to public lodging establishments that are transient; amending s. 633.061, F.S.; specifying procedures for reexamining persons who do not pass an examination that must be passed in order to be issued or to renew a license or permit to conduct certain businesses relating to fire extinguishers or preengineered fire extinguishing systems; amending s. 633.085, F.S.; providing an exception to the requirement of payment for the cost of inspections of state buildings and premises; providing penalties for false impersonation of the State Fire Marshal, an agent of the Division of State Fire Marshal of the Department of Insurance, a firefighter, or a fire safety inspector; amending s. 633.351, F.S.; revising standards for decertification of firefighters; providing for continuing education requirements for certain inactive firefighters to maintain certification; amending s. 633.445, F.S.; revising a reference to the Fire College Revolving Trust Fund; amending s. 633.45, F.S.; requiring the division to specify standards for the evaluation of institutions, instructors, and facilities for training firefighters and firefighter recruits; providing continuing education requirements for such instructors; amending s. 633.521, F.S.; revising procedures for the administration of the examination that a person must pass in order to be issued a certificate of competency as a contractor engaged in a business related to fire extinguishers or preengineered fire extinguishing systems; providing an effective date.

—was referred to the Committees on Insurance, Judiciary-Criminal and Appropriations.

By the Committee on Employee and Management Relations; and Representative Ascherl—

HB 2357—A bill to be entitled An act relating to public employees; amending s. 447.208, F.S.; authorizing the Public Employees Relations Commission to reduce a suspension to a written reprimand; authorizing the commission to require an agency to place certain statements on the face of a final disciplinary action notice; providing an effective date.

—was referred to the Committee on Personnel, Retirement and Collective Bargaining.

By Representative Canady—

HB 2383—A bill to be entitled An act relating to perjury and false statements; creating s. 837.07, F.S.; defining the defense of recantation to a criminal charge of perjury or false statement; providing an effective date.

—was referred to the Committee on Judiciary-Criminal.

By Representative Ireland—

HB 2409—A bill to be entitled An act relating to the City of Sanibel, Lee County; prohibiting the practice of chumming within the distance of 1/2 mile of the beaches of Sanibel; providing a definition; providing an exception; providing penalties; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Agriculture and Representative Mackey and others—

HB 2549—A bill to be entitled An act relating to agricultural advertising; creating part II of ch. 571, F.S.; amending ss. 571.01-571.10, F.S.; correcting references; creating ss. 571.21-571.30, F.S., the Florida Agricultural Promotional Campaign Act; providing legislative intent; providing definitions; providing purpose; providing duties of the Division of Marketing of the Department of Agriculture and Consumer Services; requiring participants in the campaign to register with the department; providing for fees; creating the Florida Agricultural Promotional Campaign Trust Fund; providing rulemaking authority; creating the Florida Agricultural Promotional Campaign Advisory Council; providing for appointment, organization, and responsibilities; specifying unlawful acts; providing an administrative fine; providing penalties; creating an Advertising Interagency Coordinating Council; providing for future repeal; providing a directive to statute editors; providing for review and repeal; providing an effective date.

—was referred to the Committee on Agriculture.

By Representative Kelly and others—

HB 2611—A bill to be entitled An act relating to criminal justice training; creating s. 943.1755, F.S.; providing findings; creating the Florida Criminal Justice Executive Institute within the Department of Law Enforcement and affiliated with the State University System; specifying duties of the Board of Regents; creating a policy board to guide and direct the institute; providing membership and terms; providing for per diem and travel expenses; requiring a report to the presiding officers of the Legislature; providing an effective date.

—was referred to the Committees on Judiciary-Criminal, Higher Education and Appropriations.

By the Committee on Health Care and Representative Graham—

CS for HB 2705—A bill to be entitled An act relating to professional liability coverage of hospital staff and health care services pools; amend-

ing s. 402.48, F.S.; providing health care services pools with alternative methods of establishing financial responsibility; amending s. 766.110, F.S.; deleting a coverage election provision; specifying that physicians participating in a hospital-sponsored self-insurance program comply with financial responsibility requirements if the coverage limits provided to such physicians are not less than the applicable minimum limits established in ss. 458.320 and 459.0085, F.S., and the hospital is a verified trauma center; amending ss. 458.320 and 459.0085, F.S., to conform; providing an effective date.

—was referred to the Committees on Health Care and Insurance.

By the Committee on Health and Rehabilitative Services; and Representative Gordon—

CS for HB 2765—A bill to be entitled An act relating to child care; amending ss. 393.063, 394.455, 396.032, 397.021, 400.462, 402.302, 409.175, and 959.001, F.S.; expanding the definition of "screening" with respect to caretakers of the developmentally disabled, mental health personnel, alcoholism and drug dependency treatment resource personnel, home health agency personnel, child care personnel, personnel of child-placing and residential child-caring agencies and family foster homes, and youth services personnel; amending s. 402.3055, F.S.; requiring specified information on child care facility employment applications, and Department of Health and Rehabilitative Services and local licensing agency applications for such facilities; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; Judiciary-Civil; Governmental Operations; and Appropriations.

By Representative Trammell—

HB 2815—A bill to be entitled An act relating to public defender conflict of interest appointments; amending s. 27.53, F.S.; deleting authorization to appoint a public defender from another circuit and provide office necessities, and reenacting s. 925.037(1), (4)(a), and (8), F.S., relating to reimbursement of counties for fees paid to appointed counsel, to incorporate said amendment in references thereto; providing an effective date.

—was referred to the Committees on Judiciary-Civil and Judiciary-Criminal.

By Representative C. F. Jones—

HB 3061—A bill to be entitled An act relating to offers of settlement and offers and demands for judgment; amending s. 768.79, F.S.; including reference to liability insurance with respect to offers of judgment in negligence cases; amending s. 45.061, F.S.; including reference to liability insurance with respect to offers of settlement in civil actions; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By the Committee on Community Affairs and Representative Tobin—

CS for HB 3137—A bill to be entitled An act relating to disposal of solid, special, or biohazardous waste; amending ss. 125.01 and 166.021, F.S.; authorizing counties and municipalities to require persons to demonstrate the existence of a plan or contract for disposal of such waste; providing an effective date.

—was referred to the Committee on Community Affairs.

By the Committee on Health and Rehabilitative Services; and Representative Graber—

CS for HB 3143—A bill to be entitled An act relating to developmental disabilities; amending s. 393.063, F.S.; clarifying the professional requirements for psychologists employed in comprehensive transitional education programs; expanding the definition of the term "high-risk child" to include a child who has a physical or genetic anomaly associated with developmental disability as that term is used in ch. 393, F.S., relating to developmental disabilities; amending s. 393.11, F.S.; modifying requirements for the involuntary admission to residential services of certain mentally retarded persons; providing authority for the court to issue orders for the administration of psychotropic medication and behavioral programming; amending s. 393.13, F.S.; revising the rights of clients of the developmental services program; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; and Appropriations.

By Representatives Patchett and Rojas—

HB 3171—A bill to be entitled An act relating to public swimming and bathing facilities; amending s. 514.033, F.S.; increasing annual operating permit fees; providing an effective date.

—was referred to the Committees on Health Care; Finance, Taxation and Claims; and Appropriations.

By Representative McEwan and others—

HB 3193—A bill to be entitled An act relating to the City of Ocoee, Orange County; providing police jurisdiction on roadways located outside city limits but inside county limits to grant additional arrest powers to duly constituted law enforcement officers of the city; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Community Affairs; and Rules and Calendar.

By Representative Harris—

HB 3231—A bill to be entitled An act relating to Central County Water Control District, formerly Central County Water Drainage District, in Hendry County, Florida; amending chapter 70-702, Laws of Florida, as amended, so as to permit the district to construct, acquire by donation or purchase recreational facilities and areas, including related facilities, and to construct, operate, and maintain such recreational and related facilities for the benefit of district residents; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Regulatory Reform and Representative Kelly—

HB 3235—A bill to be entitled An act relating to cigarette permitting; amending s. 210.15, F.S.; requiring distributing agents to file a set of fingerprints prior to permit approval; amending s. 210.16, F.S.; revising language relating to the power of the Division of Alcoholic Beverages and Tobacco to revoke wholesale dealers' permits; saving ss. 210.15, 210.16, and 210.161, F.S., from Sunset repeal; providing an effective date.

—was referred to the Committees on Regulated Industries; and Finance, Taxation and Claims.

By Representatives Crady and Irvine—

HB 3243—A bill to be entitled An act relating to Bradford County; amending chapter 73-408, Laws of Florida, as amended, relating to the Bradford County Board of Historical Trustees; providing that bonds for individual members shall be an expense to the Board; providing for alienation of property held by the Board and the terms and conditions for such alienation; providing severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Hill—

HB 3261—A bill to be entitled An act relating to the Loxahatchee River Environmental Control District; amending chapter 71-822, Laws of Florida, as amended, to include a specified parcel of land within the territorial limits of the district; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Natural Resources and Conservation; and Rules and Calendar.

By Representative Crady and others—

HB 3269—A bill to be entitled An act relating to the City of Jacksonville; amending chapter 80-513, Laws of Florida, as amended, to permit pensioners of the 1937 Employees' Pension Fund of the City of Jacksonville who are employed by the Jacksonville Electric Authority to work exclusively for the St. Johns River Power Park joint project to make payments into the fund; requiring contribution by the St. Johns River Power Park joint project into the fund; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Simone—

HB 3283—A bill to be entitled An act relating to Manatee County; amending chapter 87-483, Laws of Florida, to delete Manatee Valley Drainage District; providing for the continuation of Manatee Valley Drainage District; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Liberti—

HB 3285—A bill to be entitled An act relating to Palm Beach County; amending chapter 74-565, Laws of Florida, as amended, and repealing section 12 thereof; providing for adoption of countywide model construction codes and their revisions; providing and amending definitions; providing for enforcement; providing for code enforcement personnel qualifications; providing for violations; providing for repeal of laws in conflict; prohibiting lowering of standards; providing that model codes shall be available to the public; providing for interpretation of model codes and revisions; providing for additional membership and terms of office for the Building Code Advisory Board; providing for authority for building codes and revisions, to provide for product and system evaluation, including standards and application fees and revocation and renewal of product and system compliance; repealing a provision relating to applicability of the construction codes; providing severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Health and Rehabilitative Services—

HB 3307—A bill to be entitled An act relating to human subjects research under the Department of Health and Rehabilitative Services; creating s. 402.105, F.S.; providing a short title, purpose, and intent; providing definitions; creating the Review Council for Human Subjects; providing for membership, duties, and procedures; providing for an annual appropriation; providing for administration by the Department of Legal Affairs; providing for review of certain proposed research on human subjects; providing for rulemaking; providing for review and repeal; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; Governmental Operations; and Appropriations.

By Representative Wise and others—

HB 3319—A bill to be entitled An act relating to the City of Jacksonville; amending chapter 67-1320, Laws of Florida, as amended, being the Charter of the City of Jacksonville so as to remove the provision that prohibits members of the city council from holding any other public employment; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Boyd—

HB 3395—A bill to be entitled An act relating to Gilchrist County; authorizing the District School Board of Gilchrist County to issue bonds to raise moneys to pay for the construction of classrooms at Bell High School; authorizing the school board to issue refunding bonds and bond anticipation notes; requiring the school board to pay the principal of, premium for, and interest on such bonds out of racetrack moneys and jai alai fronton moneys that accrue annually to Gilchrist County and are allocated to the school board and from certain other moneys of the school board; requiring the school board to annually reserve $100,000 of such moneys to secure the payment of the principal of, premium for, and interest on such bonds; specifying costs of classroom construction for which the school board may issue such bonds; providing for the investment of the proceeds of the sale of bonds; making the bonds legal investments, lawful collateral for public deposits, and negotiable instruments; providing that a referendum is not required to exercise any powers under the act, unless required by the State Constitution; amending s. 1, ch. 63-942, Laws of Florida, as amended; revising the distribution of racetrack moneys and jai alai fronton moneys that accrue to Gilchrist County and are allocated to the district school board and the board of county commissioners; deleting a provision that has had its effect; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Tobiassen and others—

HB 3415—A bill to be entitled An act relating to the City of Pensacola, Escambia County; amending chapter 15425, Laws of Florida, 1931, as amended; amending the petition filing date for candidates qualifying for election to the city council for whom the filing fee is an undue burden; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Tobiassen and others—

HB 3417—A bill to be entitled An act relating to the Escambia County Utilities Authority; amending chapter 81-376, Laws of Florida; increasing the penalty for violation of wastewater pretreatment rules or regulations of the authority; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Employee and Management Relations; and Representative Tobiassen and others—

CS for HB 3419—A bill to be entitled An act relating to the City of Pensacola, Escambia County; amending chapter 84-510, Laws of Florida; amending the civil service law to specify deadlines for notice of appeal, filing of specifications of charges, and freeze of pension rights; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By Representative Sanderson—

HB 3445—A bill to be entitled An act relating to Broward County; amending the Broward County Human Rights Act; amending Article I, Section 3 of chapter 83-380, Laws of Florida; expanding the definition of "Discriminatory Classification" by adding "sexual orientation" to the list of discriminatory classifications; providing a definition of sexual orientation; amending Article II of chapter 83-380, Laws of Florida, by adding sexual orientation to the list of discriminatory classifications wherever the list appears in Article II; providing for a referendum.

—was referred to the Committee on Rules and Calendar.

By Representative Sanderson—

HB 3557—A bill to be entitled An act relating to the City of Coconut Creek, Broward County; contracting and reducing the corporate limits of the City of Coconut Creek to deannex the Sunshine State Parkway (also known as Florida's Turnpike) Right-of-Way within said corporate limits; redefining city limits; repealing chapter 89-417, Laws of Florida, relating to the existing definition of the corporate limits of the City of Coconut Creek; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Transportation; and Rules and Calendar.

By the Committee on Regulatory Reform and Representative Morse—

HB 3585—A bill to be entitled An act relating to the State Theater Program; amending s. 265.287, F.S.; providing additional powers of the Department of State with respect to the State Theater Program; repealing s. 265.288, F.S.; relating to the State Theater Board of Florida; providing an effective date.

—was referred to the Committee on Governmental Operations.

By Representative Roberts—

HB 3595—A bill to be entitled An act relating to Brevard County; amending chapter 28924, Laws of Florida, 1953, as amended, relating to the North Brevard County Hospital District; providing for a change in the terms of officers of the board; changing the name of the hospital and other medical facilities in the district; ratifying action of the board; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Regulatory Reform and Representative Rudd—

HB 3607—A bill to be entitled An act relating to agricultural products dealers; amending s. 604.19, F.S.; increasing the maximum license fee for a dealer's principal place of business; amending s. 604.20, F.S.; increasing the minimum bond or certificate of deposit required for licensure as a dealer; amending s. 604.21, F.S.; modifying the procedure for filing complaints against dealers; limiting complaints that may be filed; amending s. 604.22, F.S.; deleting an obsolete reference; amending s. 604.25, F.S.; modifying grounds for disciplinary action; amending s. 604.30, F.S.; revising provisions for injunctive relief; authorizing issuance of cease and desist orders; reenacting s. 604.33, F.S., confirming language added by statute editors; amending s. 604.34, F.S.; revising period for payment by grain dealers; saving ss. 604.15, 604.151, 604.16, 604.17, 604.18, 604.19, 604.20, 604.21, 604.211, 604.22, 604.23, 604.25, 604.27, 604.28, 604.29, 604.30, 604.32, 604.33, and 604.34, F.S., from Sunset repeal; providing for future review and repeal; providing an effective date.

—was referred to the Committees on Agriculture; Finance, Taxation and Claims; and Appropriations.

By Representative Mitchell—

HB 3611—A bill to be entitled An act relating to the Gulf Coast Criminal Justice Assessment Center, Bay County; amending chapter 89-521, Laws of Florida; increasing the membership of the board of directors; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Crady—

HB 3667—A bill to be entitled An act relating to the Town of Worthington Springs; amending chapter 61-3012, Laws of Florida; increasing the amount of money the town can obligate without a public bid; granting the town the authority to levy ad valorem taxes; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representatives K. Smith and Mackey—

HB 3671—A bill to be entitled An act relating to juveniles; amending s. 39.402, F.S.; deleting the authority of the chief judge of the circuit court to designate a member of The Florida Bar to hold detention hearings in dependency cases when the county court judge is not an attorney; providing an effective date.

(Substituted for SB 2044 on the special order calendar this day.)

By Representative Crady—

HB 3699—A bill to be entitled An act relating to the Town of Glen St. Mary, Baker County; amending chapter 57-1338, Laws of Florida; providing that the mayor shall be elected by the qualified electors of the Town of Glen St. Mary; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Regulatory Reform and Representative Morse—

HB 3729—A bill to be entitled An act relating to the Board of Trustees of the John and Mable Ringling Museum of Art; amending s. 265.26, F.S.; providing qualifications for membership on the board of trustees; providing that the board of trustees is responsible for preserving and maintaining all the artifacts, collections, and objects in the custody of the museum; allowing the board of trustees to approve a direct-support organization to operate for certain purposes; providing that the direct-support organization must operate under a contract and specifying the terms of the contract; providing for the appropriation of certain funds by the Legislature; specifying funds which may be held in trust by the direct-support organization; providing for a council to advise and assist the board of trustees; providing qualifications for membership on the council; repealing s. 265.261(3), F.S., relating to a council to advise and assist the board of trustees; reviving and readopting ss. 265.26, 265.261, and 265.27, F.S., notwithstanding repeal scheduled pursuant to the Sunset Act; providing for future repeal and review of said sections; providing an effective date.

—was referred to the Committees on Governmental Operations and Appropriations.

By Representative Stone and others—

HB 231—A bill to be entitled An act relating to the Legislature; amending s. 11.12, F.S.; providing for an increase in travel expenses that may be paid to legislators' employees; providing an effective date.

—was referred to the Committees on Rules and Calendar; and Appropriations.

By Representative Glickman and others—

HB 315—A bill to be entitled An act relating to theft; amending s. 812.014, F.S.; authorizing inclusion of any prior theft conviction in accumulating offenses for second and subsequent petit theft penalties, and reenacting ss. 812.015(2), 538.23(2), 634.319(2), 634.421(2), 642.038(2), and 705.102(4), F.S., relating to retail and farm theft, receipt of stolen regulated metals property, reporting and accounting for funds received by sales representatives in certain fiduciary transactions, and unlawful appropriation of lost or abandoned property, to incorporate said amendments in references thereto; providing technical amendments; providing an effective date.

—was referred to the Committees on Judiciary-Criminal and Appropriations.

By Representative Gordon—

HB 353—A bill to be entitled An act relating to public records; creating s. 119.105, F.S.; prohibiting accessing police reports for commercial solicitation purposes; providing an effective date.

—was referred to the Committees on Judiciary-Criminal and Governmental Operations.

By the Committee on Commerce and Representative Cosgrove—

CS for HB 489—A bill to be entitled An act relating to contracting; adding subsection (8) to s. 489.537, F.S.; providing additional registration job scope authority; creating ss. 489.128 and 489.532, F.S.; providing that contracts performed by unlicensed contractors are unenforceable at law; amending s. 489.105, F.S.; providing that class A air conditioning contractors, class B air conditioning contractors, and mechanical contractors may install, replace, disconnect, or reconnect certain heating, ventilation, and air conditioning control wiring; providing a definition for mediation; creating ss. 489.134 and 489.538, F.S.; specifying scope of licenses under part I and part II of ch. 489, F.S.; amending s. 489.503, F.S.; deleting certain exemptions from part II of ch. 489, F.S.; amending s. 489.103, F.S.; defining the term "owners of property" to provide certain exemptions from construction contracting provisions for owners of mobile homes; amending s. 489.127, F.S; establishing special master and lien provisions, establishing penalty provisions; amending section 489.129, F.S.; establishing a mediation process; amending s. 489.505, F.S.; defining mediation and registered alarm system contractor; amending s. 489.533, F.S.; establishing a mediation process; amending s. 489.113, F.S.; providing clarification of contractor and subcontractor authority; providing an effective date.

—was referred to the Committee on Economic, Professional and Utility Regulation.

By the Committee on Community Affairs and Representative Messersmith and others—

CS for HB 607—A bill to be entitled An act relating to the towing of motor vehicles; amending s. 120.57, F.S.; including certain hearings held by the Division of Florida Highway Patrol as an exclusion to the requirement of a hearing officer appointed by the Division of Administrative Hearings under the Administrative Procedure Act; amending s. 125.0103, F.S.; providing that price control restraints do not apply to the removal and storage of certain wrecked or disabled vehicles; amending s. 166.043, F.S.; conforming to the act with respect to certain price control limitations; amending s. 319.30, F.S.; revising language with respect to the dismantling, destruction, or change of identity of a motor vehicle or mobile home and certain salvage; providing definitions; providing documentation and records requirements; providing penalties; amending s. 319.33, F.S.; revising language with respect to offenses involving vehicle identifi-

cation numbers, applications, certificates, and papers; amending s. 321.051, F.S.; authorizing the Division of Florida Highway Patrol to limit the number of wrecker operators under certain circumstances; amending s. 713.78, F.S.; revising language with respect to liens for recovering, towing, or storing vehicles; providing fees; providing notice requirements regarding the posting of bonds; providing penalties; amending s. 715.05, F.S.; revising language with respect to the reporting of unclaimed motor vehicles; amending s. 715.07, F.S.; revising language with respect to vehicles parked on private property and the towing therefrom; providing penalties; amending s. 812.055, F.S.; including towing and storage facilities in law requiring the physical inspection of such facilities by law enforcement officers; providing an effective date.

—was referred to the Committees on Transportation and Judiciary-Civil.

By the Committees on Appropriations and Health Care and Representative Campbell and others—

CS for CS for HB 619—A bill to be entitled An act relating to trauma care; providing a short title; providing legislative intent; amending s. 395.0146, F.S.; deleting reference to trauma services for purposes of certificate of need requirements to terminate or reduce emergency or trauma services; amending s. 395.031, F.S.; providing for applicability of definitions; creating s. 395.033, F.S.; providing for trauma service areas; creating s. 395.0335, F.S.; providing for selection of state-sponsored trauma centers; creating s. 395.034, F.S.; providing for reimbursement to state-sponsored trauma centers; amending s. 395.037, F.S.; providing the Department of Health and Rehabilitative Services with rulemaking authority; amending s. 395.038, F.S.; providing limited immunity from liability with respect to regional poison control centers; establishing the Trauma Services Trust Fund; specifying uses for the fund; providing that certain funds may be deposited in the trust fund; amending s. 409.266, F.S.; increasing Medicaid ground and air transportation reimbursement rates; providing an appropriation; directing the Department of Health and Rehabilitative Services to investigate with the Federal Health Care Financing Administration potential federal financial support of a cost-effective trauma system; providing for review and repeal; providing effective dates.

—was referred to the Committees on Health Care; Finance, Taxation and Claims; and Appropriations.

By Representative Canady—

HB 879—A bill to be entitled An act relating to criminal justice documents; amending s. 943.058, F.S.; authorizing the Department of Law Enforcement to disseminate information contained in sealed records to the Risk Assessment Information System Coordinating Council to assist in development of a population-at-risk profile; amending s. 117.10, F.S.; providing that law enforcement and correctional officers are notaries public for purpose of notarizing, certifying, or attesting to written documents or recorded statements in connection with the performance of official duties; providing an effective date.

—was referred to the Committees on Judiciary-Criminal and Appropriations.

By the Committee on Judiciary and Representative Martin—

CS for HB 973—A bill to be entitled An act relating to the Board of Regents; amending s. 240.215, F.S.; providing that employees or agents of the Board of Regents shall not be determined to be agents of other persons in civil actions resulting from certain acts or omissions; providing an effective date.

—was referred to the Committee on Higher Education.

By the Committee on Employee and Management Relations; and Representatives Bloom and Messersmith—

CS for HB's 1011 and 2419—A bill to be entitled An act relating to law enforcement and correctional officers; amending s. 943.22, F.S.; deleting language with respect to the salary incentive program for full-time law enforcement officers which provides that contributions shall not be required and benefits shall not be paid under the Florida Retirement System for payments made under the program; amending s. 117.10, F.S.; providing that law enforcement and correctional officers are notaries public for purpose of notarizing, certifying, or attesting to written documents or recorded statements in connection with the performance of official duties; providing an effective date.

—was referred to the Committees on Personnel, Retirement and Collective Bargaining; and Appropriations.

By the Committee on Health Care and Representative Flagg and others—

CS for HB 1023—A bill to be entitled An act relating to acquired immune deficiency syndrome; amending s. 230.2319, F.S.; providing clarification for certain middle school instruction; amending s. 381.042, F.S.; correcting language and a cross reference; amending s. 381.609, F.S.; defining "significant exposure"; authorizing release of preliminary HIV test results under certain circumstances; defining "health care provider" with respect to the disclosure of certain test results; providing an exception to informed consent for release of HIV test results to certain child custodians; providing an exception to informed consent for medical personnel in certain situations where a significant exposure has occurred; exempting the results of such tests from s. 119.07(1), F.S.; providing for future legislative review of such exemptions pursuant to the Open Government Sunset Review Act; amending s. 381.6105, F.S.; providing an exemption from confirmatory testing for certain organ and tissue donations; authorizing release of preliminary test results; amending s. 384.29, F.S.; providing for release of certain confidential information; amending s. 796.08, F.S.; authorizing injured law enforcement officers, firefighters, paramedics, and emergency medical technicians to obtain results of tests for certain sexually transmissible diseases; providing for confidentiality; providing a penalty; providing for review and repeal; directing the Department of Health and Rehabilitative Services to conduct a survey relating to incidents of significant exposure and to prophylactic use of zidovudine (AZT); providing for rules; requiring a report; providing an effective date.

—was referred to the Committees on Health Care and Appropriations.

By the Committees on Appropriations; Finance and Taxation; and Health Care; and Representative Flagg and others—

CS for CS for CS for HB 1209—A bill to be entitled An act relating to health care; providing legislative intent; amending s. 110.602, F.S.; excluding certain physicians from the cap on Selected Exempt Service positions; amending s. 154.304, F.S.; revising certain definitions used in The Florida Health Care Responsibility Act of 1988; amending s. 154.306, F.S.; revising provisions relating to the financial responsibility of a county for certified residents who are qualified indigent patients treated at an out-of-county participating hospital or regional referral hospital; amending s. 154.308, F.S.; clarifying procedures for determining eligibility of indigent patients under said act; amending s. 154.3105, F.S.; deleting an obsolete reference; amending s. 154.316, F.S.; revising notification requirements for hospitals under said act; amending s. 240.4067, F.S., which provides for a Medical Education Tuition Reimbursement Program; revising the program to provide for a Medical Education Reimbursement and Loan Repayment Program; providing for payments to offset loans and educational expenses; specifying the health care professionals qualified for the program; providing payment amounts; providing requirements to qualify for such payments; providing for matching certain federal funds; amending ss. 395.01465 and 395.102, F.S.; correcting references; amending s. 240.4075, F.S., which provides for a Nursing Student Loan Forgiveness Program; revising the types of loans that may be repaid and the categories of nurses eligible; revising the loan repayment schedule; revising provisions which impose an additional license fee; revising a requirement relating to matching funds; creating s. 381.362, F.S., the Public Health Dental Program Act; authorizing the department to implement a comprehensive public health dental program; providing for determination of criteria for eligibility for services and promulgation of fees by the department; amending s. 381.702, F.S.; revising the definition of "intermediate care facility" under the Health Facility and Services Development Act; amending s. 394.4787, F.S.; revising the definition of "specialty psychiatric hospital" for purposes of provisions which require such hospitals which seek certain reimbursements to accept certain patients referred by the department; amending s. 409.212, F.S.; providing a rate of payment for optional state supplementation; providing for additional supplementation; providing conditions; amending s. 409.266, F.S.; revising eligibility requirements for Medicaid services for children; increasing fees for obstetrical services; amending s. 409.2661, F.S., which provides for medically indigent demonstration projects; revising said section to provide for an Area Health Education Center Network; providing requirements with respect thereto; providing duties of medical schools; amending s. 409.2662, F.S.; revising uses of the trust fund; amending s. 409.2673, F.S.; revising provisions relating to the shared county and state health care program for low-income persons; revising eligibility requirements for participation in the program; revising services provided under the program; revising the date for mandatory participation by counties;

revising the limitation on the amount of funding counties may receive under the program; providing for the program to be funded pursuant to legislative appropriation; providing requirements relating to eligibility determinations; providing for designation of lead agencies by counties and providing duties thereof; revising requirements for reimbursements to hospitals; providing that disputes among certain agencies participating in the program shall be resolved pursuant to ch. 120, F.S.; creating s. 409.2675, F.S.; requiring the department to adopt rules governing said program; providing that the department shall distribute moneys from the Public Medical Assistance Trust Fund to hospitals providing a disproportionate share of Medicaid or charity days; providing definitions; providing criteria to determine a hospital's disproportionate share rate; providing for additional disproportionate share payments to hospitals that participate in the regional perinatal intensive care center program and providing requirements for receiving such payments; amending s. 409.7015, F.S.; extending the repeal date of provisions authorizing the Division of Unemployment Compensation to provide information to the Florida Small Business Health Access Corporation; amending s. 641.225, F.S.; revising provisions relating to applicability of certain minimum surplus requirements to prepaid plans exempt under s. 641.48(3), F.S.; directing the department to conduct a comprehensive evaluation of the Title XIX long-term care reimbursement plan; requiring a report; providing effective dates.

—was referred to the Committees on Health Care; Personnel, Retirement and Collective Bargaining; and Appropriations.

By Representative Tobin—

HB 1221—A bill to be entitled An act relating to preneed funeral merchandise or service contracts; providing for an interim study by the House Insurance Committee; providing a report; providing an effective date.

—was referred to the Committee on Commerce.

By the Committee on Rules and Calendar; and Representative B. L. Johnson—

CS for HB 1423—A bill to be entitled An act relating to the Division of Forestry; authorizing the Division of Forestry of the Department of Agriculture and Consumer Services to administer tree planting programs; creating a trust fund to accept donations and grants from federal, state, and private sources; providing for administration of the fund and for disbursements therefrom; amending s. 589.07, F.S.; specifying that the division may acquire lands for state forest purposes by purchase; specifying that land acquisition procedures provided in s. 253.025, F.S., do not apply to acquisitions by the division; amending s. 589.08, F.S.; creating a trust fund and authorizing deposit of a portion of state forest gross receipts therein; providing for use of the trust fund for certain land acquisition and management and providing requirements with respect thereto; providing for confidentiality of appraisal reports and providing for future review and repeal; providing an effective date.

—was referred to the Committees on Agriculture; Finance, Taxation and Claims; and Appropriations.

By the Committee on Judiciary and Representative Cosgrove—

CS for HB 1443—A bill to be entitled An act relating to procurement of legal services; amending s. 287.059, F.S.; requiring agencies requesting approval for use of private legal services to report certain information to the Attorney General; requiring agencies to contract with the Attorney General when staffing and expertise are available; requiring the Attorney General to adopt, by rule, a standard fee schedule for private legal services; requiring agencies to use the fee schedule; providing exceptions; reenacting s. 287.012(4), F.S., relating to contractual services, to incorporate the amendment to s. 287.059, F.S., in a reference thereto; providing an effective date.

—was referred to the Committees on Judiciary-Civil, Governmental Operations and Appropriations.

By the Committees on Appropriations; and Health and Rehabilitative Services; and Representative Frankel and others—

CS for CS for HB 1453—A bill to be entitled An act relating to child and adult protection; providing a name for the act; creating s. 11.51, F.S.; requiring the Auditor General to conduct certain reviews of the Department of Health and Rehabilitative Services in relation to deaths of minors; specifying duties of the department; providing for confidentiality; providing for reports; amending s. 39.002, F.S.; renumbering goals for children; amending s. 39.01, F.S.; providing additional circumstances under which a child is deemed dependent; amending s. 39.40, F.S.; requiring the courts to expedite placement and judicial handling of certain children in dependency proceedings; amending s. 39.402, F.S.; providing conditions for placement in shelter; providing for notification to parents or legal custodians of children involved in dependency proceedings as to dependency procedure and their legal rights in regard thereto; providing circumstances under which a child may remain home or return home; providing for appointment of guardian ad litem; providing that parents or legal custodians have the right to be heard and present evidence at shelter detention hearings; amending s. 39.404, F.S.; specifying when a petition for termination of parental rights may be filed; amending s. 39.408, F.S.; prescribing documentation to be provided in a predisposition study; amending s. 39.41, F.S.; specifying content of dispositional order in dependency proceedings; providing circumstances under which a child may remain home or return home; amending s. 39.413, F.S.; providing additional parties who may appeal from orders relating to dependency; amending s. 39.418, F.S.; correcting a cross reference; amending s. 39 453, F.S.; providing timeframes for initial judicial review; providing for hearings by citizen review panels; allowing material evidence to be presented by foster parents; providing circumstances under which a child may remain home or return home; creating s. 39.4531, F.S.; providing membership and duties of citizen review panels; amending s. 39.455, F.S.; providing immunity from liability for members of citizen review panels; amending s. 39.456, F.S.; correcting a cross reference; amending s. 39.461, F.S.; specifying when a petition for termination of parental rights may be filed; amending s. 39.464, F.S.; revising grounds for termination of parental rights; amending ss. 39.465 and 39.466, F.S.; correcting references; amending s. 39.467, F.S.; requiring the court, in an adjudicatory hearing on termination, to consider the specified grounds for termination and the manifest best interests of the child; specifying factors to be used in considering the manifest best interests of the child; amending ss. 39.468 and 39.469, F.S.; correcting cross references; amending s. 39.473, F.S.; providing additional parties who may appeal from orders relating to termination of parental rights; amending s. 119.07, F.S.; authorizing petition to the court to make public records of the Department of Health and Rehabilitative Services pertaining to investigations of child or adult abuse, neglect, abandonment, or exploitation; providing a presumption in favor of disclosure in cases involving death; amending s. 216.136, F.S.; providing additional duties of the Social Services Estimating Conference; specifying duties of the Department of Health and Rehabilitative Services; establishing the Child Welfare System Estimating Conference; providing duties; providing for principal participants; amending s. 232.02, F.S.; restricting availability of home education programs to meet school attendance requirements; amending ss. 393.063, 394.455, 396.032, 397.021, and 400.462, F.S.; expanding the definition of "screening" with respect to caretakers of the developmentally disabled, mental health personnel, alcoholism and drug dependency treatment resource personnel, and home health agency personnel; specifying who must conduct assessments of employment history checks and checks of references; creating s. 402.26, F.S.; providing legislative intent with respect to child care; creating s. 402.3015, F.S.; providing purpose of the subsidized child care program; providing for fees; providing for transitional child care; amending s. 402.302, F.S.; revising the definition of "family day care home"; providing criteria for provision of care; expanding the definition of "screening" with respect to family day care homes; specifying who must conduct assessments of employment history checks and checks of references; amending s. 402.305, F.S.; revising and increasing minimum staff training requirements for certain child care personnel; providing additional exemptions; providing for evaluation of requirements and procedures; providing firesafety standards for facilities operated in public schools and for certain before-school and after-school child care programs; amending s. 402.3055, F.S.; providing additional contents of applications for child care licenses and applications for child care employment; amending s. 402.310, F.S.; providing an additional administrative fine for violations that cause death or serious harm to a child in care; amending s. 402.313, F.S.; requiring licensure of certain family day care homes; authorizing certain voluntary licensure; creating s. 402.3135, F.S.; providing for a subsidized child care case management program for certain children and their families; providing duties and responsibilities; providing for program evaluation; creating s. 402.3145, F.S.; providing for a subsidized child care transportation program for certain children; providing requirements; creating s. 409.146, F.S.; directing the Department of Health and Rehabilitative Services to establish a children, youth, and families client and management information system; providing system requirements; providing duties of the department; requiring quarterly and annual

reports; providing for staff training; providing timeframes; amending s. 409.175, F.S.; expanding the definition of "screening" with respect to family foster homes, residential child-caring agencies, and child-placing agencies; specifying who must conduct assessments of employment history checks and checks of references; amending s. 409.178, F.S.; modifying limitations on grants to employers participating in the Child Care Partnership Act; providing priority considerations; providing for biennial reports; amending s. 415.102, F.S.; providing definitions; amending s. 415.103, F.S.; providing for tracing and recording of telephone reports; specifying information to be given to any subject of an investigation; providing notice and content of report classification; providing for appeals procedures; providing a schedule for requesting reports, submitting written comments, and requesting amendment or expunction of records; providing circumstances under which a proposed confirmed report is reclassified as a confirmed report; amending s. 415.104, F.S.; providing that an alleged perpetrator may be represented by counsel; conforming language; limiting use of warnings, reprimands, or disciplinary actions; amending s. 415.107, F.S.; providing for release of certain records involving the death of aged adult or disabled person as a result of abuse or neglect or exploitation; specifying who may have access to certain reports; authorizing additional searches of the abuse registry; conforming language; amending s. 415.1102, F.S.; requiring development of a statewide data bank of volunteer long-term care experts; providing for use of such volunteers in investigations; amending s. 415.111, F.S.; requiring state attorneys to establish procedures to facilitate the prosecution of offenses relating to failure to report abuse or neglect of aged persons or disabled adults; amending s. 415.503, F.S.; providing definitions; amending s. 415.504, F.S.; providing for tracing and recording of telephone reports; specifying information to be given to any subject of an investigation; providing notice and content of report classification; providing for appeals procedures; providing a schedule for requesting reports, submitting written comments, and requesting amendment or expunction of records; providing circumstances under which a proposed confirmed report is reclassified as a confirmed report; amending s. 415.505, F.S.; providing that an alleged perpetrator may be represented by counsel; providing for immediate commencement of investigations in certain institutional child abuse cases; specifying information to be provided to subjects of child abuse investigations; requiring the Department of Health and Rehabilitative Services and the Department of Education to develop a protocol for investigations; conforming language; amending s. 415.5055, F.S.; providing for confidentiality of records of child protection teams; providing exceptions; providing for review and repeal; amending s. 415.51, F.S.; conforming language; providing for release of certain records involving the death of a child as a result of abuse or neglect; specifying who may have access to certain reports; providing for confidentiality; providing for review and repeal; amending s. 415.511, F.S.; providing immunity from civil or criminal liability for good faith child abuse reports; amending s. 415.513, F.S.; requiring state attorneys to establish procedures to facilitate the prosecution of offenses relating to failure to report abuse or neglect of children; amending s. 427.011, F.S.; including certain children in the definition of "transportation disadvantaged"; amending s. 959.001, F.S.; expanding the definition of "screening" with respect to youth services personnel; specifying who must conduct assessments of employment history checks and checks of references; amending s. 959.06, F.S.; correcting a cross reference; amending s. 2, ch. 89-288, Laws of Florida; changing the name of the Task Force on Child Abuse and Child Neglect Reports to the Task Force on Abuse, Neglect, and Exploitation Reports; extending the life of the task force; providing for additional members; providing additional duties; creating s. 63.167, F.S.; requiring the establishment of a state adoption information center, to be operated under contract with a licensed child-placing agency, and providing the functions thereof; requiring equitable distribution of referrals and providing rulemaking authority; providing for the protection of minors from obscene materials; providing definitions; providing a penalty; reenacting ss. 402.3055(5)(a), 402.311, 402.312(3), and 402.3125(5)(b), F.S., to incorporate the amendment to s. 402.310, F.S., in references thereto; providing that certain provisions of the act take effect only if appropriations are provided to fund said sections; requiring the Department of Health and Rehabilitative Services to conduct a study and submit recommendations and a report on the issue of sexual abuse of foster children; providing an appropriation; providing effective dates.

—was referred to the Committees on Health and Rehabilitative Services; Finance, Taxation and Claims; Rules and Calendar; and Appropriations.

By the Committee on Criminal Justice and Representative Roberts and others—

CS for HB 1481—A bill to be entitled An act relating to landlord and tenant; creating s. 83.525, F.S.; providing that use of rental premises for unlawful activities constitutes a breach of the rental agreement; providing a definition; providing for trespass under certain circumstances; amending s. 83.56, F.S., providing remedies of the landlord; amending s. 83.62, F.S., providing for expediting certain procedures; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By the Committee on Finance and Taxation; and Representative Graham and others—

CS for HB 1531—A bill to be entitled An act relating to ad valorem tax exemptions; amending s. 196.081, F.S., which provides an exemption for the homestead of a totally and permanently disabled veteran; providing that such veteran's spouse may transfer the exemption to another residence under certain circumstances; providing a retroactive effective date.

—was referred to the Committee on Finance, Taxation and Claims.

By the Committee on Insurance and Representative Cosgrove—

CS for HB 1737—A bill to be entitled An act relating to insurance; amending ss. 627.0645 and 627.410, F.S.; authorizing the Department of Insurance to exempt certain insurers from annual rate filing requirements; providing an effective date.

—was referred to the Committee on Insurance.

By the Committees on Appropriations; Finance and Taxation; and Health Care; and Representative Frankel and others—

CS for CS for CS for HB 1739—A bill to be entitled An act relating to health care; providing legislative findings and intent; amending s. 212.02, F.S.; including dues paid to private clubs and membership clubs providing athletic, exercise, or physical fitness facilities within the definition of the term "admissions" for purpose of the imposition of the sales tax; amending s. 230.2319, F.S.; providing additional instruction in the middle childhood education program; providing for an exemption from certain instruction; amending s. 233.067, F.S., and repealing subsection (11), relating to sex education; providing additional instruction in the comprehensive health education and substance abuse prevention program; providing for an exemption from certain instruction; creating s. 402.321, F.S.; providing funding for school health services and specifying criteria for receipt thereof; requiring proposals; providing program requirements; providing for exemption from services; providing for evaluation and a report; amending s. 411.202, F.S.; revising definition of the term "prevention"; amending s. 411.22, F.S.; revising legislative intent relating to handicap prevention and early assistance; amending s. 411.222, F.S.; providing additional intraagency responsibilities; increasing the membership of the State Coordinating Council for Early Childhood Services; expanding council duties; modifying reporting requirements; providing appropriations; providing a severability clause; providing effective dates.

—was referred to the Committees on Health and Rehabilitative Services; Education; Finance, Taxation and Claims; and Appropriations.

By the Committee on Insurance and Representative Bainter—

CS for HB 1871—A bill to be entitled An act relating to insurance; amending s. 624.315, F.S.; deleting certain annual report requirements; amending s. 624.418, F.S.; exempting certain insurers from a provision authorizing suspension or revocation of certificate of authority; amending s. 624.424, F.S.; authorizing the department to require all insurers to file independent certified public accountant audited financial reports on a statutory basis; revising exemptions; amending s. 624.502, F.S.; increasing the service of process fee for service on certain insurers and other persons; amending s. 625.151, F.S.; modifying provision for valuation of certain securities; creating s. 625.181, F.S.; providing for the financial determination of assets received as capital or surplus contributions by insurers; amending s. 625.325, F.S.; revising limitations on investments in subsidiaries; amending ss. 625.50 and 625.52, F.S.; providing for acceptance by the Department of Insurance of certain agent deposits; amending s. 627.4133, F.S.; exempting mortgage guaranty insurance from certain notice requirements; amending s. 627.476, F.S.; requiring life insurers to

grant reduced paid-up nonforfeiture benefits in specified circumstances; amending s. 627.6785, F.S.; providing that credit life and credit disability policies must not make debtors or lessors under specified ages ineligible; providing minimum duration of coverage; amending s. 627.7288, F.S.; expanding applicability of the exclusion of motor vehicle windshields from deductibles; amending s. 627.782, F.S.; requiring promulgation of risk premiums, rather than risk premium rates, for title insurance; amending s. 627.803, F.S.; requiring variable or indeterminate value contracts to contain certain notice; amending s. 627.915, F.S.; deleting certain insurer experience reporting requirements; amending s. 634.312, F.S.; requiring home warranty policies to be delivered to the insured within a specified time; providing that the application is part of the contract; reenacting ss. 624.11(2), 624.316(1)(b), 629.518, 632.638(3), and 635.091, F.S., relating to risk retention groups, examinations, limited reciprocal insurers, fraternal benefit societies, and mortgage guaranty insurance, to incorporate the amendments to ss. 624.418 and 627.915, F.S., in references thereto; providing for review and repeal; providing an effective date.

—was referred to the Committee on Insurance.

By the Committee on Community Affairs and Representatives Huenink and Wallace—

CS for HB 1997—A bill to be entitled An act relating to county government; amending s. 125.66, F.S.; providing requirements with respect to enactment of county ordinances or resolutions which affect the use of land; amending s. 125.68, F.S.; providing certain exceptions to the requirement that counties codify and annually publish all county ordinances; requiring that records be kept and certain notations be made of ordinances that are so exempt; providing an effective date.

—was referred to the Committee on Governmental Operations.

By the Committee on Insurance and Representative Crotty—

CS for HB 2047—A bill to be entitled An act relating to warranty associations; amending s. 634.041, F.S.; revising criteria for qualification as motor vehicle service agreement companies; creating s. 634.045, F.S.; providing requirements for guarantee agreements; providing for review and repeal; amending s. 634.401, F.S.; revising definitions; creating s. 634.4065, F.S.; providing requirements for guarantee agreements; providing for review and repeal; providing an effective date.

—was referred to the Committee on Insurance.

By the Committee on Environmental Regulation and Representatives Langton and Wise—

CS for HB 2081—A bill to be entitled An act relating to air pollution; amending s. 320.03, F.S.; increasing the nonrefundable fee charged on every license registration sold, transferred, or replaced; providing for the use of such fee; directing the Department of Environmental Regulation to charge an inspection and notification fee for any asbestos removal project; providing exceptions; providing for the disposition of such fees; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; Finance, Taxation and Claims; and Appropriations.

By the Committee on Governmental Operations and Representative Ireland—

CS for HB 2135—A bill to be entitled An act relating to leasing of real property by state agencies; amending s. 265.043, F.S., relating to art in state buildings; amending ss. 255.249 and 255.25, F.S.; raising the square footage threshold for competitive bidding for such leases; requiring a specified number of quotes for leases that are not competitively bid; authorizing agency heads to delegate specified functions to designated representatives; requiring the Department of General Services to review and approve leases that are not competitively bid as to technical sufficiency; requiring certain certification in order for a state agency to lease any building or part thereof; deleting requirement of certification that certain property meets firesafety standards of the State Fire Marshal; requiring posting of a bond along with a formal protest of agency action relating to bids for leased space; providing for recovery of costs in such actions; exempting leases of a specified length from certain approval requirements; providing circumstances for emergency acquisition of space by lease without competitive bids; requiring a statement relating to conflicts of interest from participants in certain award processes; amending s. 287.012, F.S.; raising the square footage threshold for mobile homes, trailers, and other portable structures in the definition of commodity; providing an effective date.

—was referred to the Committees on Governmental Operations and Appropriations.

By the Committee on Criminal Justice; and Emergency Preparedness, Military and Veterans Affairs; and Representative Reddick and others—

CS for HB 2309—A bill to be entitled An act relating to state military personnel and property; amending s. 901.15, F.S.; granting arrest and law enforcement powers to military law enforcement officers of the Florida National Guard; directing the Adjutant General to prescribe training; amending s. 250.10, F.S.; requiring the Adjutant General of the state to provide military police and security guards at certain state military reservations and armories; providing an effective date.

—was referred to the Committees on Governmental Operations and Judiciary-Criminal.

By the Committee on Employee and Management Relations; and Representatives Ascherl and Goode—

HB 2359—A bill to be entitled An act relating to public retirement systems; amending ss. 112.05, 121.40, 122.16, 238.181, and 321.203, F.S.; modifying the penalty for violation of statutes limiting public reemployment following retirement from a state-administered retirement system; requiring violating retirees and agencies to jointly share liability under certain circumstances; amending s. 112.363, F.S.; modifying retirees' health insurance subsidy amounts receivable; amending ss. 121.021 and 121.053, F.S.; correcting cross references, conforming provisions, and removing obsolete language; amending s. 121.051, F.S.; correcting cross references; opening for a limited period membership in the Florida Retirement System to certain active members of existing systems which have been closed to new members; requiring notice of election to transfer and providing that failure to notify shall result in compulsory membership in the closed system; providing that the decision shall be irrevocable; providing that transferees from the Teachers' Retirement System shall retain certain rights to survivor benefits; authorizing cities and independent special districts which have opted to join the Florida Retirement System to revoke their election to participate in order to establish an alternative retirement plan; providing for public hearing; providing for publication of notice; providing for an actuarial report; providing for presentation of the plan and report to each certified bargaining unit; requiring negotiation; providing for adoption of a revocation resolution; providing conditions; removing obsolete provisions; amending s. 121.052, F.S.; establishing the Elected State and County Officers' Class, formerly the Elected State Officers' Class; providing membership; providing for participation and withdrawal, generally; providing for participation where a term of office is shortened under specified circumstances; providing for upgrading of prior service within the purview of the class; providing for purchase of retirement credit; providing restrictions for dual employment; providing required retirement contribution rates; providing for social security withholding; providing for modified retiree health insurance subsidy contribution; specifying normal retirement date and vesting period; providing for computation of average final compensation; providing for accrual of retirement credit; providing for retention of credit; providing for benefits; providing special provisions relative to death benefits; providing for cost-of-living adjustment and purchase of credit for military service; providing for social security coverage; providing for rules; amending ss. 121.055 and 121.071, F.S.; modifying contribution rates as required pursuant to actuarial valuation of the Florida Retirement System and modifying provisions related to health insurance subsidy contribution rates; amending s. 121.091, F.S.; correcting cross references, conforming provisions, and removing obsolete language; providing the administrator with standards of proof for disability retirement; providing additional optional retirement benefit selections; providing for spousal notification; providing for designation of contingent beneficiaries under certain conditions; creating s. 121.1111, F.S.; providing for purchase of out-of-state teaching service at total actuarial cost; creating s. 121.136, F.S.; providing that the Department of Administration shall provide members an annual statement of benefits; amending s. 121.23, F.S.; limiting the review powers of the State Retirement Commission; requiring submission of medical evidence in cases involving disability retirement; providing a specified period for requesting a hearing; amending s. 121.35, F.S.; eliminating position eligibility appeals to the State Retirement Commission; repealing ss. 121.112, 121.1121, 121.1124, and 121.113, F.S., relating to participation in the class by certain elected officers whose terms were shortened and participation by spouses of deceased elected

officials (the substance of which provisions are transferred hereby to s. 121.052, F.S.); providing legislative intent with respect to contribution rates; providing effective dates.

—was referred to the Committee on Personnel, Retirement and Collective Bargaining.

By the Committee on Children and Youth; and Representative Langton and others—

HB 2397—A bill to be entitled An act relating to juvenile delinquency and gang prevention; creating ch. 874, F.S., the "Street Terrorism Enforcement and Prevention Act of 1990"; creating s. 874.01, F.S.; providing a short title; creating s. 874.02, F.S.; providing legislative findings and intent; creating s. 874.03, F.S.; providing definitions; creating s. 874.04, F.S.; providing reclassified penalties for youth and street gang activity; creating s. 874.06, F.S.; providing a civil cause of action, including treble damages and attorney's fees; creating s. 874.08, F.S.; providing for seizure and forfeiture of profits, proceeds, and instrumentalities of youth and street gangs; creating s. 874.09, F.S.; requiring crime data information reporting; amending s. 893.138, F.S.; providing nuisance remedies with respect to buildings or places used for youth and street gang activity; amending s. 959.31, F.S.; changing the name and scope of "Delinquency Prevention Councils" to "Juvenile Delinquency and Gang Prevention Councils"; providing legislative intent; revising council membership and grant application procedures; amending s. 943.0572, F.S.; changing "youth gang data base" to "youth and street gang data base," to conform; providing additional direction and duties; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; and Judiciary-Criminal.

By the Committee on Children and Youth; and Representative Ritchie and others—

HB 2467—A bill to be entitled An act relating to family courts; creating the Commission on Family Courts; providing for appointment of members; providing duties and responsibilities; requiring the submission of reports; providing for staffing of the commission; providing per diem for members; providing for expiration of the commission; directing state agencies to consider the impact of proposed action on the family; providing for a statement; providing an effective date.

—was referred to the Committees on Judiciary-Civil; Rules and Calendar; and Appropriations.

By the Committee on Natural Resources and Representatives Hoffmann and Lawson—

CS for HB 2503—A bill to be entitled An act relating to saltwater fisheries; creating s. 370.142, F.S.; directing the Department of Natural Resources to establish a program to verify the number of spiny lobster traps in state and adjacent federal waters; prohibiting use of traps without tags; providing for a trap tag fee; providing an appropriation; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; and Appropriations.

By the Committee on Governmental Operations and Representatives Martin and Burke—

CS for HB 2539—A bill to be entitled An act relating to the Administrative Procedure Act; creating s. 120.525, F.S.; requiring adoption of certain policies as rules; providing definitions; providing for actions for relief for violations relating to unadopted policy; providing for attorney's fees under certain circumstances; providing for binding findings; amending s. 120.54, F.S.; providing standing for the Small and Minority Business Advisory Council in rulemaking proceedings; providing circumstances under which an agency may not change the substance of a proposed rule prior to adoption; amending s. 120.56, F.S.; providing a procedure for challenges to unadopted policies; providing for orders to initiate rulemaking; providing for attorney's fees under certain circumstances; amending s. 120.57, F.S.; providing for imposition of fees and costs against a party who fails to appear in certain circumstances; providing for review of nonrule policy relied upon by an agency in a proceeding affecting substantial interests; requiring that recommended orders be in writing except in specified circumstances; providing that an agency may not reject or modify certain findings of fact; requiring the person conducting the hearing to provide certain assistance to unrepresented parties; amending s. 120.58, F.S.; providing for a pilot project using alternative methods of discovery; providing for admissibility of certain information in agency proceedings for a rule or order, including notice thereof; providing that evidence relating to a patient's prior sexual conduct is inadmissible in a proceeding relating to disciplinary action against a licensee; providing exceptions; amending s. 120.59, F.S.; requiring a final order to address exceptions submitted by a party; providing for notice of liability for fees and costs; amending s. 120.65, F.S.; requiring adoption of a code of conduct for hearing officers; specifying rate of pay of hearing officers; amending s. 120.68, F.S.; limiting circumstances for remand of a case when an agency's exercise of discretion is not explained; providing effective dates.

—was referred to the Committees on Governmental Operations and Judiciary-Civil.

By Representative Peeples—

HB 2691—A bill to be entitled An act relating to the City of Punta Gorda, Charlotte County; amending chapter 79-558, Laws of Florida, as amended; increasing maximum annual tax levies with respect to special taxing districts for the maintenance of canals, waterways, and navigable channels; providing a referendum.

—was referred to the Committee on Rules and Calendar.

By the Committee on Judiciary and Representative Glickman—

CS for HB 2711—A bill to be entitled An act relating to the right of eminent domain to counties; amending s. 127.01, F.S.; providing that in eminent domain proceedings a county's burden of showing reasonable necessity for parks, playgrounds, recreational centers, or other types of recreational purposes shall be the same as the burden in other types of eminent domain proceedings; amending s. 166.401, F.S.; providing that certain eminent domain proceedings, which allow the Department of Transportation to acquire entire parcels of property where the costs of acquisition are equal to or less than the costs of acquiring a portion of property, apply to municipalities; providing an effective date.

—was referred to the Committees on Community Affairs and Judiciary-Civil.

By the Committee on Commerce and Representatives Rush and Renke—

CS for HB 2801—A bill to be entitled An act relating to contracts in restraint of trade; amending s. 542.33, F.S.; providing that with respect to certain contracts in restraint of trade the court shall not enter an injunction under certain circumstances; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By the Committee on Judiciary and Representative Hawkins—

CS for HB 2833—A bill to be entitled An act relating to powers of attorney; amending s. 709.08, F.S.; providing that persons other than family members may be granted a durable power of attorney; providing for notification; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By Representatives Boyd and Irvine—

HB 2939—A bill to be entitled An act relating to judicial circuits; amending s. 26.021, F.S.; providing residency requirements with respect to circuit judges in the second and eighth circuits; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By the Committee on Criminal Justice and Representative Wallace and others—

CS for HB 2987—A bill to be entitled An act relating to public nuisances; amending s. 893.138, F.S.; including a violation of s. 796.07, F.S., relating to lewdness, assignation, and prostitution in a provision of law permitting local administrative action to abate a public nuisance; providing that orders issued by local administrative boards may be enforced pursuant to certain procedures in the Administrative Procedure Act; providing that such boards may seek temporary and permanent injunctive relief; providing for future review and repeal; providing an effective date.

—was referred to the Committee on Judiciary-Criminal.

By the Committee on Ethics and Elections; and Representatives Ostrau and Burke—

CS for HB 3009—A bill to be entitled An act relating to state government agency lobbying; creating s. 20.41, F.S.; providing definitions; requiring agency lobbyists to register with agencies; providing for annual registration and renewal fees; providing for updating and cancellation of registration; requiring semiannual expenditure reports; providing for record storage; providing for advisory opinions by the Attorney General's office; providing for declaratory statements by agencies; providing penalties; providing rulemaking authority; providing for deposition of fees; repealing s. 112.3215, F.S., relating to executive branch lobbyists' registration and reporting and investigation by the Commission on Ethics; providing an effective date.

—was referred to the Committees on Ethics and Elections; Governmental Operations; and Appropriations.

By Representative Lippman and others—

HB 3117—A bill to be entitled An act relating to the Florida Prepaid Postsecondary Education Expense Program; amending s. 240.551, F.S.; providing a definition; modifying terms of advance payment contracts; creating s. 240.552, F.S.; establishing the Florida Prepaid Tuition Scholarship Program; providing for program administration; providing objectives and definitions; providing for review and repeal; amending s. 220.183, F.S., relating to the community contribution tax credit; including a direct-support organization established under the Florida Prepaid Postsecondary Education Expense Program as an eligible sponsor; providing an effective date.

(Substituted for SB 1386 on the special order calendar this day.)

By the Committee on Commerce and Representative Lombard and others—

CS for HB 3167—A bill to be entitled An act relating to banking and finance; amending s. 658.33, F.S.; eliminating a reference to directors reading of the banking code and rules; amending s. 655.045, F.S.; authorizing the Department of Banking and Finance to furnish copies of examinations of state financial institutions to certain institutions; authorizing the department to recover the cost of certain examination and supervision; providing a definition; providing a time period for the payment of certain fees; providing an administrative penalty; increasing an administrative fine under certain circumstances; creating s. 655.047, F.S.; providing for assessments of financial institutions generally; providing an administrative penalty; amending ss. 657.053, 658.73, and 665.082, F.S.; providing a timeframe for the payment of certain fees and assessments of certain financial institutions; providing an effective date.

—was referred to the Committees on Commerce and Appropriations.

By Representative Harris—

HB 3229—A bill to be entitled An act relating to Spring Lake Improvement District, Highlands County; amending chapter 71-669, Laws of Florida, as amended, to provide for the staggered election of supervisors to a three member board to serve for a term of 3 years each; providing for underground utilities; providing for mowing and maintenance of privately owned lots; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Environmental Regulation and Representative Drage and others—

CS for HB 3247—A bill to be entitled An act relating to the Indian River Lagoon System and Basin; prohibiting new discharges or increased loadings from existing sewage treatment facilities into the Indian River Lagoon System; requiring elimination of existing discharges of treated effluent into the system before July 1, 1995; providing exceptions; requiring owners of sewage treatment facilities within the Indian River Lagoon Basin to investigate the feasibility of using reclaimed wastewater from their facilities for beneficial purposes; directing the Department of Environmental Regulation to identify areas served by package sewage treatment plants which are considered a threat to the water quality of the system; directing the St. Johns River and South Florida Water Management Districts, through the SWIM Plan, to identify areas where existing septic tanks are considered a threat to the water quality of the system; requiring counties and municipalities within the basin to develop and implement programs to provide centralized sewage collection and treatment facilities for the problem areas identified by the department and the water management districts; amending chapter 88-469, Laws of Florida; providing a date by which the Board of County Commissioners of Marion County must fix and assess a schedule of rates, fees, and charges to finance the cost of providing water and sewer services within the Rainbow River Management Area; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; and Rules and Calendar.

By Representative Crady and others—

HB 3317—A bill to be entitled An act relating to the City of Jacksonville; providing for the termination of the Duval County Hospital Authority as created by chapter 63-1305, Laws of Florida, upon the establishment by the Council of the City of Jacksonville of an oversight committee to monitor indigent health care contracts existing between the City of Jacksonville and University Medical Center, Inc. or its successor; providing for future repeal of chapters 63-1305, 65-1499, 67-1308, 67-1330, 73-450, 77-542, 79-449, 80-498, 81-373, and 85-434, Laws of Florida; providing for transfer of powers, duties, functions, personnel, and obligations to the City of Jacksonville; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Frankel—

HB 3359—A bill to be entitled An act relating to the West Palm Beach water catchment area, Palm Beach County; amending chapter 89-479, Laws of Florida, to change the description of the West Palm Beach water catchment area to include therein a certain portion of Section 2, in Range 42 East, Township 43 South, which lands were inadvertently excluded in the description of the water catchment area in chapter 89-479, Laws of Florida; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Hawkins—

HB 3389—A bill to be entitled An act relating to Collier County, prohibiting the taking of saltwater fish, except by hook and line, hand-held cast nets, and with no more than five (5) crab traps, in the residential man-made saltwater canals in the unincorporated area of Collier County; providing a penalty; repealing chapter 83-389, Laws of Florida, which prohibits the setting of fishing nets within 100 feet of a man-made seawall on Marco Island or the Isles of Capri during certain hours; providing for a referendum; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By Representatives Lawson and Rudd—

HB 3391—A bill to be entitled An act relating to the City of Tallahassee and Leon County; creating a commission to develop a charter to consolidate the City of Tallahassee and Leon County upon voter approval; providing for the membership of the commission; providing for meetings and staff; providing for a referendum if the Legislature adopts the proposed Charter; and providing for an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Hawkins—

HB 3403—A bill to be entitled An act relating to the City of Naples, Collier County; prohibiting the taking of saltwater fish, except by hook and line, hand-held cast nets, and with no more than five (5) crab traps, in the residential, man-made saltwater canals in the City of Naples; providing a penalty; providing for a referendum; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By Representative Harris—

HB 3423—A bill to be entitled An act relating to the City of Sebring, Highlands County; amending chapter 23535, Laws of Florida, 1945, as amended; authorizing the sale, conveyance, transfer, and lease of assets of the Utilities Commission upon approval of the city council; requiring approval by the city council before the Utilities Commission incurs certain debts; providing for a referendum.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative B. L. Johnson—

HB 3467—A bill to be entitled An act relating to Santa Rosa County; amending chapter 79-561, Laws of Florida, as amended, relating to the Santa Rosa County Civil Service Board; providing that the position of Santa Rosa County Engineer shall be an unclassified position; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committees on Rules and Calendar; Finance and Taxation; and Insurance; and Representative Deutsch and others—

CS for CS for HB 3489—A bill to be entitled An act relating to the State Comprehensive Health Association Act; amending s. 627.648, F.S.; providing a short title; amending s. 627.6482, F.S.; providing definitions; amending s. 627.6484, F.S.; deleting obsolete language; requiring use of the market assistance plan in the application process; amending s. 627.6486, F.S.; requiring the board or administrator to collect data to verify residency; revising certain eligibility requirements; amending s. 627.6488, F.S.; changing the name of the association to the Florida Comprehensive Health Association; specifying membership of the board of directors; providing for appointment; authorizing the board to employ or retain certain persons; requiring meetings to be open; requiring collection of assessments; requiring the board to implement cost containment measures; allowing the board to design, implement, and contract with preferred provider organizations and health maintenance organizations; requiring the board to make an annual report; requiring audited financial statements; amending s. 627.649, F.S.; providing for an administrator, rather than an administering insurer; amending s. 627.6492, F.S.; revising computation of assessments; amending s. 627.6494, F.S.; providing circumstances under which an insurer may not be assessed; deleting the assessment cap; amending s. 627.6496, F.S.; correcting a reference; amending s. 627.6498, F.S.; establishing a benefit plan patterned after the state group health insurance program; revising the maximum chargeable premium to policyholders; providing that a determination that an assessment is unlawful or prohibited reinstate the previous method of assessment for deficits; saving ss. 627.648-627.6498, F.S., from Sunset repeal; providing for review and repeal; providing an effective date.

—was referred to the Committees on Insurance; and Finance, Taxation and Claims.

By the Committee on Governmental Operations and Representative Martin—

HB 3577—A bill to be entitled An act relating to public printing; redesignating chapter 283, F.S., as "Public Printing"; amending s. 283.30, F.S.; revising definitions; amending s. 283.31, F.S.; providing for records of executive agency publications; amending s. 283.32, F.S.; expanding provisions relating to the use of recycled paper by agencies; amending s. 283.33, F.S.; providing for the printing of publications; providing for lowest bidder awards; amending ss. 283.34 and 283.35, F.S.; revising language with respect to state officers not having an interest in printing contracts and to the preference given to printing within the state; amending s. 283.425, F.S.; providing a reasonable time period for acceptance of printing and correction of defects; amending s. 283.43, F.S., to conform; amending s. 283.55, F.S.; revising language with respect to the purging of publication mailing lists; creating s. 283.56, F.S.; providing for the preparation of agency publications; creating s. 283.57, F.S.; providing for the purchase of printing equipment; creating part I of chapter 283, F.S., entitled "Executive Agency Printing"; amending s. 283.36, F.S.; providing definitions; amending s. 283.37, F.S.; revising notice requirements when calling for certain printing bids; amending s. 283.38, F.S.; providing for bid awards; creating s. 283.63, F.S.; providing for the printing of the Florida Statutes; providing for the awarding of bids; providing for the posting of a bond for such printing; creating s. 283.64, F.S.; providing for the printing of general and special acts of the Legislature; providing for the republication of such acts; amending s. 283.39, F.S.; providing for the terms of new contracts for legislative printing; amending s. 283.40, F.S.; providing that statements under oath may be required by a legislative agency of any bidder for a printing contract; amending s. 283.41, F.S., relating to forfeit of deposit as liquidated damages for false statements in a contract for legislative printing; creating s. 283.68, F.S.; prohibiting state officers from having interests in a legislative printing contract; creating s. 283.69, F.S.; providing for preference for printing done within the state; creating s. 283.70, F.S.; providing for acceptance of printing and penalty for defective printing; creating part II of chapter 283, F.S., entitled "Legislative Agency Printing"; amending s. 11.242, F.S.; revising the powers and duties of the Joint Legislative Management Committee in the operation and maintenance of the statutory revision program; amending s. 283.52, F.S.; providing for the distribution of general and special acts of the Legislature; amending s. 283.44, F.S., relating to the classification, numbering, and distribution of legislative documents; amending s. 283.49, F.S.; providing for the distribution of specified public documents to universities; amending s. 283.50, F.S.; providing that the law libraries of certain institutions of higher learning shall be designated as state legal depositories; amending s. 283.53, F.S.; including the University of Florida Journal of Law and Public Policy within a group of specified university publications; providing for placement of moneys retained by the journal in a trust fund; amending s. 257.05, F.S.; revising the definition of "public document"; amending s. 283.51, F.S., relating to copies of public documents furnished to the Library of Congress; amending s. 287.012, F.S.; revising the definition of the term "commodity"; amending s. 283.422, F.S.; providing for the printing of examinations or related materials to preserve examination security; amending s. 216.031, F.S.; revising language with respect to expenditures for publications reported in legislative budget requests; repealing s. 283.315, F.S., relating to the required statement of cost and purpose printed on certain publications; repealing s. 24.122(4)(g), F.S., which exempts the Department of the Lottery from the provisions of s. 283.315, F.S., to conform; repealing s. 283.42, F.S., relating to bids required on class B printing; amending s. 288.012, F.S.; deleting a cross reference, to conform; repealing s. 287.102, F.S.; relating to class B printing; repealing section 6 of chapter 83-252, Laws of Florida, as amended, relating to legislative review of public printing; providing effective dates.

—was referred to the Committees on Governmental Operations; Rules and Calendar; and Appropriations.

By the Committee on Highway Safety and Construction; and Representative K. Smith—

CS for HB 3641—A bill to be entitled An act relating to commercial motor vehicles; amending s. 316.302, F.S.; specifying the federal regulations applicable to such vehicles; amending s. 316.515, F.S.; permitting the operation of certain semitrailers in this state; providing limitations; amending s. 316.550, F.S.; authorizing the issuance of permits to move certain self-propelled truck cranes under certain conditions; providing penalties; providing an effective date.

—was referred to the Committee on Transportation.

By the Committees on Finance and Taxation; and Emergency Preparedness, Military and Veterans Affairs; and Representative Reddick and others—

CS for HB 3669—A bill to be entitled An act relating to emergency management; creating s. 252.311, F.S.; providing legislative intent; amending s. 252.32, F.S.; clarifying policy and purpose with respect to emergency management; amending s. 252.34, F.S.; providing definitions; amending s. 252.36, F.S.; providing clarifying language with respect to the emergency management powers of the Governor; renumbering s. 252.35, F.S.; creating the Division of Emergency Management; providing duties and responsibilities; creating s. 252.365, F.S.; prohibiting the sale of supplies, services, provisions, or equipment during states of emergency at excessive prices; authorizing a state attorney to issue subpoenas and initiate proceedings; amending s. 252.37, F.S.; creating the Emergency Management Assistance Trust Fund; providing for the use and source of funds; amending s. 252.38, F.S.; clarifying the emergency management powers of counties and municipalities; renumbering s. 252.355, F.S.; requiring a voluntary registry of disabled persons; specifying the purpose of such registry; specifying the duties of the Department of Health and Rehabilitative Services with regard to the registry; providing timeframes for notification by electric utilities; amending s. 252.51, F.S.; providing immunity from liability; amending s. 252.83, F.S.; requiring funding to county governments; creating part III of chapter 252, F.S.; creating s. 252.91, F.S., relating to the Interstate Compact on Emergency Management; providing findings; providing definitions; providing procedures to effectuate transfer of resources to states party to the compact; requiring the appointment of a compact administrator; providing for adoption of and withdrawal from the interstate compact; allowing for other arrangements; providing severability; creating s. 252.92, F.S.; requiring the

appointment of the compact administrator; creating s. 252.93, F.S.; allowing for the payment of financial obligations imposed by the interstate compact; creating s. 252.94, F.S.; specifying the responsibilities of state departments, agencies, and officers; creating s. 252.95, F.S.; providing for the transmittal of copies of the act adopting the compact; amending s. 401.24, F.S.; providing for a medical disaster component of the emergency medical services plan; amending s. 624.5092, F.S.; requiring the Department of Revenue to administer, audit and enforce the assessment and collection of the surcharge; providing for repeal and review by the Legislature of s. 252.37, F.S., providing an appropriation, providing an effective date.

—was referred to the Committees on Governmental Operations; Community Affairs; Finance, Taxation and Claims; and Appropriations.

By the Committees on Rules and Calendar; Appropriations; and Children and Youth; and Representative Langton and others—

CS for CS for HB 3681—A bill to be entitled An act relating to the juvenile justice system; revising, reorganizing, and combining chapters 39, 953, and 959, F.S.; amending s. 39.001, F.S.; providing purpose; amending s. 39.002, F.S.; providing legislative purpose for the juvenile justice system; amending s. 39.01, F.S.; revising definitions; amending s. 39.012, F.S.; revising standards for rules for implementation; creating Part II, Delinquency Cases, as the "Juvenile Justice Reform Act of 1990"; providing for administering the delinquency system; providing for jurisdiction; creating a Commission on Juvenile Justice; providing for membership, powers, access to records, and staffing; providing for future legislative review and repeal; providing for juvenile justice training academies; creating a Juvenile Justice Standards and Training Council; providing responsibilities of the council; creating a Juvenile Justice Training Trust Fund; creating the Juvenile Delinquency and Gang Prevention Act; providing for community arbitration and purpose; providing for community arbitration programs; providing for community arbitrators; providing procedure for initiating cases for arbitration; providing for arbitration hearings; providing for community arbitration and disposition of cases; providing for review of community arbitration; providing for community arbitration funding; providing criteria for taking a child into custody; providing for release or delivery of a child from custody; providing for fingerprinting and photographing; providing for a child's right to counsel; providing authorized and prohibited uses of detention; providing detention criteria; providing for oaths, records, and confidential information; providing for medical, psychiatric, psychological, substance abuse, and educational examination and treatment; providing for intake and case management procedures and criteria, including a case management system and multidisciplinary assessment and classification and placement procedures; providing for delinquency petitions and procedure, including process and service and demand for speedy trial; providing that no answer is required to a petition alleging delinquency; providing for adjudicatory, waiver, and disposition hearings, and serious or habitual delinquent child placement determinations, and authorizing departure from department-recommended restrictiveness levels based upon clear and convincing evidence; providing for adjudication; authorizing substance abuse treatment requirements; providing powers of disposition; providing for early delinquency intervention programs; providing early delinquency intervention program criteria; providing for a boot camp educational and work program for children; creating the serious or habitual delinquent children program and providing criteria and procedure; providing for assessment, treatment, and records thereof; providing for community control or commitment of children prosecuted as adults and providing criteria and procedure; providing penalties for escapes from secure detention or residential commitment facilities; providing for transfer of children from the Department of Corrections to the Department of Health and Rehabilitative Services; providing for transfer of children to other treatment services; providing for detention of furloughed child or escapees on authority of the department; providing for contracts for the transfer of Florida children under federal custody; providing for an exceptional child educational program; providing for transfer of case management, intensive aftercare, furlough of a child, and furlough revocation; providing for appeal; providing additional grounds for appeal by the state and the time for taking such appeal; providing for orders or decisions when state appeals; providing for court and witness fees; providing for the siting of facilities for children committed to the custody, care, or supervision of the department, and providing for a study and criteria; authorizing consultants for the department; authorizing departmental contracting powers; providing standards for department personnel and providing department personnel screening standards; providing the form of commitment with a certified copy of the charge attached; amending ss. 27.02, 39.402(4), 39.411(6)(d), 39.412, 39.444, 230.335(1), 282.502(6)(a), 318.21(1), 402.22(3), 415.107(5)(a), 415.51(4), and 943.058(6)(e), F.S., and reenacting s. 958.04(1)(a), F.S., relating to duties of state attorneys, shelter placement, records of proceedings, contempt, notification of superintendent of student convictions, the information system coordinating council, disposition of civil penalties by county courts, education programs for students in department facilities, confidentiality of child abuse reports, criminal history record expunction, and disposition of youthful offenders, to incorporate and conform cross references; amending s. 230.2313, F.S.; requiring school district plans to include provision of student services to students in youth services programs; amending s. 230.2316, F.S.; establishing educational content, school day, and teacher qualifications for youth services programs; amending s. 402.22, F.S., deleting the requirement for level of educational services; requiring a report on improving educational services to delinquent youth; amending s. 232.26, F.S.; providing for suspension and expulsion proceedings and termination thereof and requiring continuation of delivery of educational services; amending s. 943.0572, F.S.; providing for a youth and street gang data base and advisory group; amending ss. 953.02, 953.21, 953.22, 953.23, 953.24, 953.31, 953.32, and 953.41, F.S., relating to findings, purpose, and intent, definitions, assessment and treatment providers, the Serious Targeted Offender Program, STOP offenders, principles of assessment and treatment, assessment, placement, and procedure, blood and urine tests of STOP offenders, and designated facilities for STOP offenders, to delete applicability of the Serious Targeted Offender Program to juveniles; requiring contracted programs and services representative of racial and ethnic population mixes and providing legislative intent with respect thereto; requiring review of referral and placement practices to prevent certain discrimination in Juvenile Justice Reform Act practices and requiring publication of the results; requiring termination of contracts with providers under certain circumstances; requiring a delinquency prevention and diversion program integration plan; requiring the department to report to the Legislature on federal funding issues; repealing ss. 39.02, 39.03, 39.031, 39.032, 39.0321, 39.04, 39.05, 39.06, 39.07, 39.071, 39.08, 39.09, 39.10, 39.11, 39.1105, 39.111, 39.112, 39.113, 39.115, 39.117, 39.12, 39.13, 39.14, 39.145, 39.146, 39.19, 39.33, 39.331, 39.332, 39.333, 39.334, 39.335, 39.336, 39.337, 416.01, 416.02, 416.03, 416.04, 416.05, 416.06, 416.07, 416.08, 959.001, 959.011, 959.021, 959.022, 959.05, 959.06, 959.10, 959.116, 959.12, 959.13, 959.15, 959.156, 959.185, 959.19, 959.20, 959.21, 959.22, 959.225, 959.23, 959.24, 959.25, 959.28, 959.29, and 959.31, F.S., relating to jurisdiction, taking a child into custody, detention, fingerprinting and photographing, use of secure detention, intake, petition, process and service, no answer required, right to counsel, medical, psychiatric, psychological, and educational examination and treatment, hearings, adjudication, powers of disposition, legislative intent, community control or commitment of children prosecuted as adults, escapes from a juvenile facility, juvenile boot camp, serious habitual juvenile offender program, information systems, oaths, records, and confidential information, contempt, appeal, additional grounds for appeal by the state, order or decision when state appeals, court and witness fees, purpose, community arbitration program, community juvenile arbitrators, procedure for initiating cases for arbitration, arbitration hearings, disposition of cases, review, funding, detention homes, counties maintaining no detention homes, circuit judge may parole, literary and industrial training, certain counties maintaining homes, board of trustees, county commissioners authorized to acquire land for home, appointment of employees, county board of visitors, definitions, administration, authority of department, regulations, annual report, state-operated detention, consultants, departmental contracting powers, discipline at department facilities, security units, transfer of minors from the Department of Corrections to the Department of Health and Rehabilitative Services, term of commitment, transfer to mental health and retardation services, detention of furloughed person or escapee on authority of the department, furlough revocation hearing, service of process, contracts for the transfer of Florida juveniles under federal custody, form of commitment, certified copy of charge to be attached to the commitment, case history of each child committed, records and privileged information, duty of juvenile detention inspectors, county and state detention facilities, exceptional child educational program, field services, juvenile justice training academies, Juvenile Justice Standards and Training Council, Juvenile Justice Training Trust Fund, and delinquency prevention; providing an appropriation; amending s. 958.14, F.S.; deleting a 6 year limitation on the time period for which commitment of youthful offenders to custody is authorized upon substantive violation of certain offenses; creating s. 958.19, F.S.; requiring the Department of Corrections to develop and implement a youth corrections program and providing program components; authorizing contracts; providing conditions of

placement; providing for removal from the program; providing for designated facilities; requiring the department to provide training for employees and contractors; providing rulemaking authority; requiring a report relating to feasibility of a supervision program; providing effective dates.

—was referred to the Committees on Health and Rehabilitative Services; Judiciary-Criminal; Judiciary-Civil; and Appropriations.

By the Committees on Appropriations and Commerce and Representative Simon and others—

CS for HB 3809 and CS for HB's 2671, 1099, 1499, 1611, 2265, 2871, 2957, 3007 and 3135—A bill to be entitled An act relating to workers' compensation and economic development; creating the Workers' Compensation Reform Act of 1990; amending s. 20.13, F.S.; creating a Bureau of Workers' Compensation Insurance Fraud within the Division of Insurance Fraud of the Department of Insurance; amending s. 20.171, F.S.; creating an Industrial Relations Commission within the Department of Labor and Employment Security; providing membership, terms, powers, and duties; creating s. 440.015, F.S.; providing legislative intent; amending s. 440.02, F.S.; providing definitions; amending s. 440.09, F.S.; providing presumptions with respect to drug or alcohol use by injured employees; providing for rules to govern inspections; providing for a drug-free workplace; providing circumstances under which medical and indemnity benefits may not be payable to employees who refuse to submit to testing or who have drugs or alcohol in their system; creating s. 440.092, F.S.; providing special requirements for compensability relating to recreational and social activities or going to or coming from work; amending s. 440.10, F.S.; providing subrogation for contractors under certain conditions; providing penalties for false, fraudulent, or misleading statements by subcontractors; amending s. 440.11, F.S.; applying exclusiveness of liability provisions to subcontractors and sub-subcontractors; amending s. 440.12, F.S.; increasing the commencement period for disability compensation; amending s. 440.13, F.S.; providing definitions; providing for prior authorization for health care provider referrals and limiting such referrals; removing a penalty; limiting the provision of attendant or custodial care; defining such care; providing criteria and procedures for the development of schedules for physician charges; revising the method of determining hospital and other reimbursement; directing the Health Care Cost Containment Board to conduct a study; expressing legislative intent that legislation be introduced based upon the findings of the study; repealing the advisory committee to the 3-member panel; providing for an audit and penalties; creating s. 440.135, F.S.; providing for pilot programs for medical, hospital, and remedial care; amending s. 440.15, F.S.; revising provisions relating to compensation for disability; amending s. 440.16, F.S.; revising procedures for payment of compensation for death; amending s. 440.185, F.S.; requiring certain information and assistance to be furnished to injured workers; amending s. 440.19, F.S.; revising procedures for filing a claim for benefits; defining "remedial treatment"; providing legislative intent; prohibiting award of attorney's fees or penalties in specified circumstances; amending s. 440.20, F.S.; revising procedures for payment of compensation; providing penalties; amending s. 440.25, F.S.; revising procedures for mediation conferences; providing conforming language; amending s. 440.26, F.S.; providing a presumption; amending s. 440.271, F.S.; providing for notice to and intervention by the division in certain appeals from orders of judges of compensation claims; creating s. 440.272, F.S.; providing for review of orders of the Industrial Relations Commission; amending s. 440.34, F.S.; limiting the amount of attorney's fees; amending s. 440.37, F.S.; providing penalties for fraudulent representations; amending s. 440.38, F.S.; providing for another method for securing workers' compensation coverage; providing penalties against self-insurance funds for failure to correct certain errors contained in an audit; creating s. 440.381, F.S.; prescribing insurance application forms; establishing minimum requirements for payroll audits and classifications; restricting accessibility to insurance coverage; providing penalties; providing indemnification of the carrier by the employer for certain misrepresentations; amending s. 440.385, F.S.; revising the obligation of the Florida Self-Insurance Guaranty Fund to certain insolvent members; providing for withdrawal of members; deleting obsolete language; creating s. 440.386, F.S.; providing procedures for delinquency, conservation, and liquidation of self-insurers; providing penalties for failure to maintain certain records; amending s. 440.39, F.S.; providing for offsets in certain cases; repealing s. 440.44(8) and (10), F.S., relating to the Workers' Compensation Oversight Board; creating s. 440.4415, F.S.; creating the Workers' Compensation Oversight Board; providing membership, terms, powers, and duties; requiring reports; providing for appointment of a legal counsel to represent the people of the state in specified matters; amending s. 440.43, F.S.; providing penalty for failure to secure insurance coverage; amending s. 440.49, F.S.; extending ability to make request for training and education benefits to carriers; providing limitation period for filing certain claims against the Special Disability Trust Fund; amending s. 440.52, F.S.; providing penalties for insurance carriers for failure to correct certain errors contained in an audit; amending s. 440.56, F.S.; requiring reporting of violations of safety rules; creating s. 440.572, F.S.; authorizing certain self-insurers to assume the liabilities of their contractors and subcontractors; amending s. 440.575, F.S.; requiring filing of reports; amending s. 440.59, F.S.; providing for closed claim reporting; creating s. 440.591, F.S.; providing rulemaking authority; amending ss. 489.114 and 489.510, F.S.; requiring contractors and electrical contractors to provide proof of coverage; requiring notice of cancellation; amending s. 626.611, F.S.; providing grounds for imposing sanctions against insurance agents; amending s. 626.869, F.S.; revising requirements for classroom instruction for workers' compensation insurance adjusters; providing appropriations; providing presumption regarding cost savings; saving ch. 440, F.S., from scheduled repeal; providing effective dates.

(Substituted for CS for SB 2492 on the special order calendar this day.)

By Representative Sansom—

HCR 3581—A concurrent resolution commending the Brevard Olympic soccer team for their victory at the National Amateur Athletic Union Junior Olympic Championship.

—was referred to the Committee on Rules and Calendar.

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 234, SB 518, SB 714, CS for SB 972, CS for SB 982, SB 1174, CS for SB 1288, CS for SB 1592, SB 1642 and SB 2676.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

On motion by Senator Myers, the following remarks were printed in the Journal.

REMARKS BY SENATOR PETERSON

Senator Peterson: Mr. President, Senators, I've been increasingly worried about the misinformation that is being transmitted to the public by school districts. It has to be deliberate. They are hitting on the children now, scaring the children that they are going to crowd the classrooms and that the teachers the children love so much are going to get fired.

They are hitting on the teachers, who are the most integral part of a good public school system. It is not fair. It is totally unfair for this misinformation to continue without somebody rebutting it.

We read in the local papers how the school district made a mistake in enrollment calculations and they lost a million dollars. Now they're blaming the State of Florida for their own miscounting of how many pupils did show up. They did that job. It was a part of the enrollment conference. We accepted their figures. They didn't show up and they didn't get the money. It is not the State of Florida's fault.

But even so, teachers all over the State of Florida are getting pink slips, being told that they are not going to be needed. Those that are left are being told, "We're going to crowd your classrooms. We're going to put five and six more kids in every classroom." It's totally unfair. It's total misinformation. It is totally wrong.

I want to let you know where we stand right now, today, without a bit of conferencing agreement on public schools. When we left the Senate with the Senate Bill that all of you, all except one, voted for, we had, first of all, long ago put $165,000,000 of new money in public schools for a three percent across the board raise for everyone in public schools. After that, before we left the Senate with this bill, we added another $100,000,000. Before we left this chamber, we added another $43,000,000 in required local effort. Before the bill left this chamber, we added an additional $50,000,000. This all went to public schools.

We have 106,000 new students estimated to show up this fall. People who get 13 and 14 million dollars of new money, like the local school district will get, have no excuse for telling teachers they're laid off. They are going to have to hire more teachers because the districts that have two and three thousand new students show up cannot crowd classrooms that much.

They cannot continue to give the misinformation that they're going to have to lay teachers off or fire teachers when we've got that many new students coming.

If we just pass the Senate budget without adding another tenth of a mill, like we probably can in this conference, we have sufficient new dollars in the Senate budget for some districts to grant as much as an eight percent raise to teachers. There's no excuse for any teacher getting less than six percent raise with the Senate budget, before we add conference dollars. No excuse, unless they want to hide the money and pay their administrators more money.

So I'm going to just read you some of these things. We have in local dollars $274,500,000 currently. It's possible for us to add another three and a half million dollars to that figure in local tax dollars. In state dollars, in the FEFP there are $642,000,000 of new money. New money. There is $9,000,000 less lottery money than the current year. So we have more general revenue dollars increase and less lottery dollars increase, if anybody wants to know that. The lottery is certainly not supplanting general revenue dollars when we've got $9,000,000 less lottery money in the public school's budget than the current year.

I just thought that we ought to refute, once and for all, this misinformation. I don't want to call it falsehood or call it by another name. I think it's generally a conspiracy to scare the kids, to scare the teachers, to scare the parents and to get everybody upset. When the facts are in this school district there'll be two thousand new pupils, in this school district they'll get $13,000,000 out of the Senate budget before we add all of that.

In other school districts teachers have been told, "You're one of the three or four we're going to fire in this building." What are they going to do when the new kids show up? They need those teachers and more teachers. So I just think that this misinformation has gone on long enough. I hope the people in the media will get the correct figures and send them back home because those people back home that have been misinformed by their school boards and their superintendents need to know that things are a whole lot better than they ever were thought to be back in March. We're doing pretty well. By the time we finish the conference, we'll be doing good and we will be doing an exceptional job of meeting the needs of Florida with the sort of restrictions on revenues that we have. So thank you, Mr. President.

Reconsideration

On motion by Senator Forman, the rules were waived and the Senate reconsidered the vote by which—

SB 1386—A bill to be entitled An act relating to the Florida Prepaid Postsecondary Education Expense Program; amending s. 240.551, F.S.; providing a definition; modifying terms of advance payment contracts; providing an effective date.

—passed May 23.

On motions by Senator Forman, by two-thirds vote—

HB 3117—A bill to be entitled An act relating to the Florida Prepaid Postsecondary Education Expense Program; amending s. 240.551, F.S.; providing a definition; modifying terms of advance payment contracts; creating s. 240.552, F.S.; establishing the Florida Prepaid Tuition Scholarship Program; providing for program administration; providing objectives and definitions; providing for review and repeal; amending s. 220.183, F.S., relating to the community contribution tax credit; including a direct-support organization established under the Florida Prepaid Postsecondary Education Expense Program as an eligible sponsor; providing an effective date.

—a companion measure, was substituted for SB 1386 and by two-thirds vote read the second time by title. On motion by Senator Forman, by two-thirds vote HB 3117 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Bankhead	Childers, W. D.	Forman	Jennings
Beard	Crenshaw	Gardner	Johnson
Brown	Davis	Girardeau	Kirkpatrick
Bruner	Deratany	Gordon	Kiser
Casas	Diaz-Balart	Grant	Langley
Childers, D.	Dudley	Grizzle	Malchon
Margolis	Peterson	Thomas	Weinstock
McPherson	Plummer	Thurman	Woodson-Howard
Meek	Scott	Walker	
Myers	Souto	Weinstein	

Nays—None

Motions

On motion by Senator Bruner, the rules were waived and **SB 1642** which passed on May 23 was ordered immediately certified to the House.

On motion by Senator Scott, the rules were waived and the Committee on Natural Resources and Conservation was granted permission to consider SB 3162 this day.

MATTERS ON RECONSIDERATION

The motion by Senator Bruner that the Senate reconsider the vote by which—

CS for SB 1606—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.021, F.S.; defining the term "disability in line of duty"; amending s. 121.031, F.S.; exempting lists of retirees' names and addresses from the provisions of s. 119.07(1), F.S., for commercial purposes; amending s. 121.051, F.S.; providing for participation by employees of Regional Coordinating Councils; amending s. 121.055, F.S.; requiring certain positions within the State Community College System and the State Board of Community Colleges to participate in the Senior Management Service Class of the Florida Retirement System; requiring senior managers of the State University System and the State Board of Administration to participate in the Senior Management Service Class of the Florida Retirement System; amending s. 121.091, F.S.; removing erroneous language; allowing judges to select a retirement benefit option when required to retire under disability by Supreme Court order; requiring that the spouse of a member be notified of and acknowledge member's election of Option 1 or Option 2 benefits; providing for the designation of a contingent beneficiary by the member for any Option 2 benefits remaining upon the death of the primary beneficiary; conforming reemployment provisions for the Florida School for the Deaf and the Blind to similar provisions for other educational institutions; amending s. 121.125, F.S.; requiring employers to pay retirement contributions for Workers' Compensation credit received by a member; amending s. 121.35, F.S.; making university presidents and the Chancellor eligible to participate in the Optional Retirement Program; directing the Department of Insurance to conduct an actuarial study; providing an effective date.

—passed May 23 was taken up and the motion was adopted.

On motion by Senator Bruner, by two-thirds vote the Senate reconsidered the vote by which CS for SB 1606 was read the third time.

On motion by Senator Bruner, the Senate reconsidered the vote by which **Amendments 1, 2** and **3** were adopted.

Further consideration of **CS for SB 1606** as amended was deferred.

SPECIAL ORDER

SB 714—A bill to be entitled An act relating to education; amending s. 228.041, F.S.; including developmental research schools within the definition of public schools; creating s. 228.053, F.S., the "Sidney Martin Developmental Research School Act"; establishing developmental research schools; providing mission; providing admission criteria; providing for fees; providing for supplemental support organizations; providing for personnel; creating an advisory board; providing duties; providing for funding; creating a Developmental Research School Educational Facility Trust Fund and a Developmental Research School Trust Fund and providing purposes thereof; providing funding formulas for operating and capital improvement purposes; authorizing additional funds for upgrading, renovating, and remodeling science laboratories; providing for developmental research schools to be designated as teacher education centers for inservice training; providing for implementation; providing for audits; creating s. 230.015, F.S.; designating developmental research schools as special school districts; providing accountability to the Department of Education; amending s. 236.0817, F.S., relating to funding for developmental research schools; creating the Joint Developmental Research School Planning, Articulation, and Evaluation Committee; providing for review and repeal; providing an effective date.

—was read the second time by title.

Senator Peterson moved the following amendment which was adopted:

Amendment 1—On page 9, strike line 23 and insert: Research School Educational Facility Trust Fund.

On motion by Senator Peterson, by two-thirds vote SB 714 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Mr. President	Davis	Johnson	Plummer
Bankhead	Deratany	Kirkpatrick	Scott
Beard	Diaz-Balart	Kiser	Souto
Brown	Dudley	Langley	Thomas
Bruner	Forman	Malchon	Thurman
Casas	Gardner	McPherson	Walker
Childers, D.	Girardeau	Meek	Weinstein
Childers, W. D.	Grant	Myers	Weinstock
Crenshaw	Grizzle	Peterson	Woodson-Howard

Nays—1

Gordon

On motion by Senator Peterson, the rules were waived and **SB 714** was ordered immediately certified to the House.

SB 2676—A bill to be entitled An act relating to the naming of state facilities; designating the Department of Agriculture and Consumer Services complex in Tallahassee the "Doyle E. Conner Agricultural Complex"; designating the main administration building within the complex in Tallahassee the "Doyle E. Conner Building"; providing for the erection of appropriate markers; providing an effective date.

—was read the second time by title. On motion by Senator Thurman, by two-thirds vote SB 2676 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Deratany	Johnson	Plummer
Bankhead	Diaz-Balart	Kirkpatrick	Scott
Beard	Dudley	Kiser	Souto
Brown	Forman	Langley	Stuart
Bruner	Gardner	Malchon	Thomas
Casas	Girardeau	Margolis	Thurman
Childers, D.	Gordon	McPherson	Walker
Childers, W. D.	Grant	Meek	Weinstein
Crenshaw	Grizzle	Myers	Weinstock
Davis	Jennings	Peterson	Woodson-Howard

Nays—None

All Senators were recorded as co-introducers of SB 2676.

On motion by Senator Thurman, the rules were waived and **SB 2676** was ordered immediately certified to the House.

On motion by Senator Thurman, the following remarks were printed in the Journal:

Senator Thurman: Mr. President and Senators, this is a bill that is going to name the agriculture complex and the administration building for Doyle Conner who is here with us today. This is a man that all of you have known. He has forty years of dedicated service to this state; first as a member of the House, having the distinction of being the youngest Speaker ever elected. That in itself is something you could be proud of. Then he decided to run a statewide campaign in 1950 for Commissioner of Agriculture. He was elected and has stayed there. His term runs out this year and he has decided to retire.

In the fifties, he, along with the U.S. Department, eradicated the screwworm. He has been involved with all kinds of eradications, trying to do it through biological control so that we can reduce the use of chemicals and pesticides. He had to deal with issues that no other state Commissioner of Agriculture has had to deal with; the urban encroachment onto the agricultural land and trying to help rural and the urban live together.

He is known not only in the United States but internationally. He has continued to promote agricultural interests from our state all over the world. I don't have enough time to tell you the dedication this man has and how he has entered into our lives. In 1967, when he came to the Legislature, he asked us to do something in the consumer services area. Just in this last year, he has helped over a half a million people solve some of their problems.

I know there are some who don't like to vote for naming buildings after people who are still alive. I think this is one time we can make some exceptions, for such a dedicated person that we have had representing our agriculture businesses and our consumers here in the State of Florida.

Commissioner, we are proud of you. We are going to miss you. But I have a feeling you'll still be around because you can't give up what you've done over the last forty years.

Senator Peterson: Mr. President, Mr. Conner. A long time ago I worked in Washington in the Capitol Building and the Speaker of the House was a fellow by the name of Sam Rayborn.

He had a saying about politics: "Pick 'em young and pick 'em good and elect 'em and keep them there." That's exactly the pattern the people of Florida have picked for Doyle Conner. They picked him young. He was not old enough to be a member of the House when he was first running but by the time he was elected he was 21 and could be sworn in. He was the youngest person ever to be the Speaker of the House of Representatives. After he was elected Commissioner of Agriculture, he had the wisdom to select me, in 1961, to be on his Agricultural Advisory Council. So, he is a wise man. So I came here at that same time. Now he has decided that he ought to quit while he is young and has all his faculties about him and I decided the same thing this year. I think it's very appropriate that we do quit at the same time. He was setting the pattern for what needs to be done by a statewide officer to represent the interest of agriculture but very soon he decided that the consumers of agriculture ought to be equally his responsibility, so he decided to make it the Department of Agriculture and Consumer Services. He has since represented both the farmer and the customer of the farmer's goods. He has also patterned the work of the Cabinet as the senior member and the one who has exhibited the good, straightforward, middle of the road, conservative and grass-roots judgement for the people of Florida in all these years.

And lastly, there is one thing you can do even if you don't happen to have the brilliant mind that he has, and that is work hard. Not only has he done things with his mind and with his administrative ability, but he has set a pattern of hard work for the people of Florida that will never be duplicated in the future. So I'm pleased to be one to honor him this day.

Senator McPherson: As a very young man I owned the Happy Cackle Egg Ranch and I was approached by a young man who was running for Commissioner of Agriculture. He wanted a campaign contribution. So my first political donation to anybody's campaign was ten dollars. To me that was a lot of eggs to sell. Not making a whole lot of money at the time, I thought ten dollars was a considerable sum, but I was happy to make that contribution to the Honorable Doyle Conner.

I still respect him although I do feel badly that he's declined to have the Trail Ride the last two years, having gone on every one of them. He has contributed a lot to Florida Government and a lot to the congeniality between the House and the Senate because of the various special events that he has sponsored and so I'm delighted to honor him today.

Senator Meek: Mr. President and members of the Senate, I'd like to commend Senator Thurman for having the foresight to give this honor to someone while he's living. There is an old adage that says, "They'd rather receive their flowers while they're living." I think this is a fitting tribute to the Commissioner of Agriculture. There will be a monument to him while he's alive, so he can smell the flowers. I think this is a good thing to do for the Agriculture Commissioner.

Senator Souto: Mr. President, Senators, I think it's very commendable that we name a building after Doyle Conner who's well liked and respected by so many people in all the communities in Florida.

Doyle has been a guy who has been working all the time for agriculture. As a new person here in the Senate and in the Agriculture Committee, and as a person who is very much interested in agri-business, Doyle and I have exchanged views and talked about many issues from mules to goals trying to bring money and prosperity to Florida. I'm really delighted to see that a building is named after Doyle Conner. I think we need to keep on with these thrusts that Doyle started and try to push Florida into all these agri-business ventures that will bring the necessary revenues to our state to cover all the projects that we need. Thank you.

Senator Kirkpatrick: Thank you, Mr. President. Senators, while we're giving the Commissioner the accolades, we need to remember how tough his job has been and all of the problems that he's had to try to

address that nobody else was willing to try to accomplish. The State of Florida has nearly fourteen million people, the fourth largest state, with forty-five million tourists that come here, and any time they go into a store to buy groceries they never have to worry about whether or not it's safe because of the job that Commissioner Conner and his people have been able to do. It's one of those things that we take for granted.

I went to Mongolia last summer, and they don't have a Doyle Conner over there; and you've got to watch everything you eat because you never know what's going to happen to you. That just doesn't happen here in Florida. The problems we had with water quality and the pests that come into this state that could have wiped out our agriculture industry, the Commissioner was always able to get a hold on. We just don't ever think about some of those problems that we could have because we've gotten them solved; and we just kind of let that go by the way. I think we need to mention that.

I also want to say, Senator Thurman, this is a great day to do this because I don't believe there's a bigger Gator supporter in the entire state than Doyle Conner; and to recognize him with this tribute on Gator Day just adds icing to the cake. Thank you, Mr. President.

Senator Thomas: Mr. President, guests in the gallery, department employees, friends, I am delighted to have the parting shot at Doyle Conner. Always wanted this, Commissioner! He doesn't have a chance to respond today.

I was like many of the rural poor. It was through Doyle Conner's leadership in the FFA that I got a chance to travel a little and get exposed to some of the happenings of the countryside.

When I was a kid, Doyle was the State President of the FFA. He came to our little community and he spoke and he spent the night with me. I remember, Commissioner, I wouldn't say I was embarrassed, but I felt a little bit less than adequate. We only had the one bathroom in the house, didn't have a guest bedroom. Conner survived that visit quite well and he didn't hurt my feelings too much.

When we went to the University of Florida he invited me over to his home for the weekend. I thought it was sort of a social function — he was building fences and we built fences all weekend and I found out that the nice little bathroom we had in our home was a pretty good standard.

All through the years we have had a close relationship. Doyle was at the University of Florida, then he dropped out, then he came back, so he was considerably older than I was; but I wound up living with him for a brief period of time.

I remember when he first started running for this job. All over West Florida, they would come to little weekend barbeque-type things. One of those times when I was traveling with Conner, they killed a wild hog; and it turned out that Conner was the only one that knew how to skin that hog. It made a tremendous impression on some people. They concluded he knew something about hogs and skinning hogs.

Doyle was elected Commissioner, after having served as Speaker, and I tell you, when he leaves this office a great part of Florida is gone. People all over this state have an affection and feel a closeness and a personal identification with this Commissioner that I think very few people in public life can ever achieve. It is certainly an inspiration for many of us, to do a superior job in government and at the same time maintain the close ties, the personal respect, the high esteem, that he has.

There couldn't have been more then two million people in Florida when he arrived in Tallahassee as Commissioner. Today we are right at 14 million. So his stewardship to Florida has been admirable, will be long remembered, forever missed, and Mr. President, if you are successful in your move to that lofty position, you have a tough row to hoe and some big shoes to fill. Good luck to both of you.

Senator Scott: Mr. President and Senators, I want to join in wishing Doyle Conner well and congratulating him on his career. When I first came here 14 years ago from the big city of Ft. Lauderdale, I was put on the Agriculture Committee and people would come and say, "What are you doing on that committee, you don't really have that much farming in your area?"

So, I made that comment to the Commissioner and he said, "the next time they say that, say, 'You do like to eat, don't you?'" That kind of characterizes his common sense, down-to-earth approach to government.

I've enjoyed working with him on a number of problems that have been of vital concern, including the farmers' markets, and the transition of the farming areas in Broward County into urban areas. And he's been very supportive.

I've also sat for many years on the budget subcommittee that handled his budget and I think he's run a good agency and a tight ship. I think there's a lot of other places in government that could model after his stretching the taxpayer's dollar and spending it well. So, we wish you well.

Senator Don Childers: Thank you, Mr. President. Senators, all of you that live in Central Florida, and live in the Panhandle, especially of the urban people of the state, think that South Florida is nothing but a sprawl of urbanism. But I represent the largest agricultural district east of the Mississippi River, the most productive east of the Mississippi River.

I have two opponents running against me in the primary that said that they had written off the agricultural community of my district. People living in the urban areas don't realize the importance of the agricultural industry in this state. And as Senator Thomas has said, Mr. President, if you are elected, you've got some big shoes to fill.

Every time there's been a freeze, every time there's been a problem with citrus canker, Mr. Conner has been there. I see him wherever I go in my district. If there's a problem, he's always there. I don't care if it's 7 o'clock in the morning, or 10 o'clock at night, he's there. And those shoes are going to be hard to fill. And I just want to commend him for the work that he and his department have done over the years he's been in that office. And I want to wish you well in whatever you might do, Mr. Commissioner.

Senator Bruner: I think one of the greatest tributes that could ever be paid to a political servant would be that some younger political aspirant, like myself and Sherry Walker, whenever we went to the many crossroads in the rural areas, there was a friend of Doyle Conner's there. They would tell me what Doyle Conner did for their aunt, or their uncle, or their brother, or sister, or what he did for them.

I had a tremendous amount of respect for Doyle Conner before I ever got into politics. But after I got out there and saw the way he ran his office and the way he conducted the affairs of his office, I had a tremendous amount, much more respect, for Doyle Conner. And I think it's only fitting that we pay tribute to him today.

Senator W. D. Childers: Doyle, on behalf of everyone in West Florida, I want to personally thank you for all the many things that you have done for West Florida and for agriculture, and for education. In times of need, when we had hurricanes and floods, the National Guard came, and on occasions the President came, but Doyle Conner was always there, too, as a member of the Cabinet; encouraging, lending his hand and assisting in every way he could.

Doyle, we are indeed proud to have had you serve us as the Speaker of the House of Representatives, a member of the House of Representatives, and as Agriculture Commissioner. We are proud of your record and we will always love and respect you.

Senator Grizzle: Thank you very much, Mr. President and members. The Commissioner said, when he was over here a little earlier, "You and I have fought the battles a long time in this Legislature." That is very true.

But I would like to congratulate Doyle Conner on his years of service and put a different note on it. My county, Pinellas, when we no longer had agriculture, had other problems; and Doyle Conner created the office of consumer services. So all of our problems in consumer services went to Doyle Conner.

I think my first meeting with him was in 1967. Speaker Turlington had given me the general government budget and Doyle Conner was hands-on with his budget. He didn't send anyone to do his work for him. That was my first real work with Doyle Conner and understanding of the Department of Agriculture.

I think the state should recognize Doyle Conner as a true ambassador for our state because of the trade missions he's done. And as we go to national meetings, there's very rarely a place we go that people don't ask about Doyle Conner and congratulate the state of Florida and his work.

Senator Walker: I'd like to share a couple of thoughts with you. When I was campaigning, toward the end of my campaign, a lot was made of my age. I was 27 at the time. And I was feeling those nervous jitters you get after you've campaigned for so many months and you've put all of your soul, your money, your personality and everything you had on the line, and you really want to win. I was feeling kind of nervous and jittery just not knowing how the results would turn out and Mary Ann Lindley wrote an article in the *Tallahassee Democrat* that was kind of bold. And I'm almost embarrassed to say she compared me to Doyle Conner; because there is no comparison. There will never be another Doyle Conner. But she did state, "Don't be so critical about her age of 27. Remember that you elected Doyle Conner to the House when he was 21, and the day he was 27, he became the Speaker."

So, I guess she reminded people that they picked you young and you turned out real fine and real good, and maybe she was trying to put a plug in for women. So, that comparison, I've always felt, made the difference for me here in Leon County. I carried this county overwhelmingly, and I think that article alone was good for 5,000 votes. I'm convinced of that.

Secondly, I know a lot of you have paid a lot of attention to my billboards, and you think that I pioneered them. That is not true. My daddy has known Doyle Conner for a long time and he's always admired Doyle Conner's billboard that is in the eastern portion of my district. If you've ever gone there, you've seen Conner up there, "Commissioner of Agriculture."

My daddy imitated your idea. He said, "That billboard has been there as long as I've driven up and down these roads. People like him, they love him, they've never forgotten him."

I think he's trying to duplicate your efforts and make me a billboard queen in 10 counties.

After I was elected, I was approached over Thanksgiving weekend by the Steinhatchee community commercial fishermen. They came to the house and found me because they were upset about something that was going to be taken up before the Governor and the Cabinet. They convinced me, newly elected, brand-new, still nervous, still trying to find my way around up here, to go and speak before the Governor and the Cabinet. I have to admit, being from Waukeenah, that maybe I didn't have a place before the Governor and the Cabinet because I had not yet gotten use to being a Senator. But I went there and I was very nervous. You all were kind enough to have a podium that day so I didn't fall out. I grasped on to the podium, and there you were, sitting up there with your very nice, beautiful smile, and you encouraged me to finish my thoughts. After it was all over and done we got one vote, and it was Doyle Conner's. And for that you go down in my heart. I will never forget you and all that you've done.

We can run around the countryside and go into schools and say that we're motivating young people and trying to encourage them to do things, but if you're not motivation for young people to get out and succeed and make accomplishments and achievements, then nobody is. You're the best motivator of young people that we have in this state and probably in this country. And I very much appreciate your friendship.

Mr. President: Before we vote on the bill, from the number of Senators who have spoken in favor, I think we're going to get the votes for it, Commissioner, so we can relax about that. I'd like to bring to the podium a man who has given 40 years of dedicated service to the state of Florida.

He's had a lot to overcome in that department. You may not know it; but during the first seven years of his administration he had an Executive Assistant by the name of Joe Brown, and he still became a great Commissioner. And today it's my honor to present to the Florida Senate, the finest Agriculture Commissioner in the United States of America today, Commissioner Doyle Conner.

Commissioner Conner: Thank you very much. Thank you kindly. Mr. President, Chairman Thurman, thank you for your bill and the kind words that have been spoken here today. I know how it feels to sit in the gallery and have a bill on special order when trivia is being transacted on the floor, so my remarks will be very short. But as I look out I see those of you who served in the House, a body that I happen to have a lot of regard for. I'm still, Mr. President, trying to find out more about the Senate. But my beginning is in the Legislature. It is the best opportunity to serve in government, be it at the local or national level. The 10 years I spent in the Florida Legislature, I feel, more than anything else, prepared me to serve in the Executive. There I had an opportunity to learn about total government, as you have.

A democracy is different. But it's worth keeping. And I guess one of the thrills of my professional career was just recently when I was invited to go to Nicaragua and attend an inauguration. After having tried something else, democracy was being reinstalled. I hope it endures there. It's tough and I know it will be tough. But it's tough in this country. I think Plato said, "A democracy is a glamorous form of government. It offers a lot of variety and disorder."

But it's still worth keeping, and I'm happy to have been a part of it.

I appreciate all of those people who came to me and said, "If you'll quit so somebody else can run for Commissioner of Agriculture, we'll name a building for you."

It will be a challenge, but my greatest hope is that we have left for my successor a good Department of Agriculture with a lot of good, dedicated scientists who produce the truth when it comes to street rumors about the safety of your food and so forth.

Let me admonish you as members of the Legislature and the media that there is a better place than on the street, from an actress, or an actor, or a politician, to get information—the laboratory. If it's well run for the benefit of the public, it is a reliable source of good information concerning food safety and those many other important subjects.

Mr. President, thank you so much.

Special Guests

Senator Kirkpatrick introduced Dr. John Lombardi, President; and Steve Spurrier, Head Football Coach from the University of Florida who were seated in the chamber.

SPECIAL ORDER, continued

Consideration of **CS for SB 2492** was deferred.

SB 1362—A bill to be entitled An act relating to the retiree health insurance subsidy; amending s. 112.363, F.S.; providing an increased amount of subsidy payment; providing an effective date.

—was read the second time by title. On motion by Senator W. D. Childers, by two-thirds vote SB 1362 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Deratany	Langley	Stuart
Bankhead	Dudley	Malchon	Thomas
Beard	Gardner	Margolis	Thurman
Brown	Girardeau	McPherson	Walker
Bruner	Gordon	Meek	Weinstein
Casas	Grant	Myers	Weinstock
Childers, D.	Grizzle	Peterson	Woodson-Howard
Childers, W. D.	Johnson	Plummer	
Crenshaw	Kirkpatrick	Scott	
Davis	Kiser	Souto	

Nays—None

Vote after roll call:

Yea—Forman

SB 1218—A bill to be entitled An act relating to drug trafficking; amending s. 893.135, F.S.; providing an additional level of cocaine trafficking and providing criminal penalties, including a mandatory minimum term of imprisonment, an enhanced fine, and a prohibition of basic gain-time; providing an effective date.

—was read the second time by title. On motion by Senator Deratany, by two-thirds vote SB 1218 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Diaz-Balart	Kirkpatrick	Souto
Bankhead	Dudley	Langley	Stuart
Brown	Forman	Malchon	Thomas
Bruner	Gardner	Margolis	Thurman
Casas	Girardeau	McPherson	Walker
Childers, D.	Gordon	Meek	Weinstein
Childers, W. D.	Grant	Myers	Woodson-Howard
Crenshaw	Grizzle	Peterson	
Davis	Jennings	Plummer	
Deratany	Johnson	Scott	

Nays—None

Vote after roll call:

Yea—Weinstock

On motions by Senator Jennings, by two-thirds vote—

CS for HB 3809 and CS for HB's 2671, 1099, 1499, 1611, 2265, 2871, 2957, 3007 and 3135—A bill to be entitled An act relating to workers' compensation and economic development; creating the Workers' Compensation Reform Act of 1990; amending s. 20.13, F.S.; creating a Bureau of Workers' Compensation Insurance Fraud within the Division of Insurance Fraud of the Department of Insurance; amending s. 20.171, F.S.; creating an Industrial Relations Commission within the Department of Labor and Employment Security; providing membership, terms, powers, and duties; creating s. 440.015, F.S.; providing legislative intent; amending s. 440.02, F.S.; providing definitions; amending s. 440.09, F.S.; providing presumptions with respect to drug or alcohol use by injured employees; providing for rules to govern inspections; providing for a drug-free workplace; providing circumstances under which medical and indemnity benefits may not be payable to employees who refuse to submit to testing or who have drugs or alcohol in their system; creating s. 440.092, F.S.; providing special requirements for compensability relating to recreational and social activities or going to or coming from work; amending s. 440.10, F.S.; providing subrogation for contractors under certain conditions; providing penalties for false, fraudulent, or misleading statements by subcontractors; amending s. 440.11, F.S.; applying exclusiveness of liability provisions to subcontractors and sub-subcontractors; amending s. 440.12, F.S.; increasing the commencement period for disability compensation; amending s. 440.13, F.S.; providing definitions; providing for prior authorization for health care provider referrals and limiting such referrals; removing a penalty; limiting the provision of attendant or custodial care; defining such care; providing criteria and procedures for the development of schedules for physician charges; revising the method of determining hospital and other reimbursement; directing the Health Care Cost Containment Board to conduct a study; expressing legislative intent that legislation be introduced based upo. .he findings of the study; repealing the advisory committee to the 3-member panel; providing for an audit and penalties; creating s. 440.135, F.S.; providing for pilot programs for medical, hospital, and remedial care; amending s. 440.15, F.S.; revising provisions relating to compensation for disability; amending s. 440.16, F.S.; revising procedures for payment of compensation for death; amending s. 440.185, F.S.; requiring certain information and assistance to be furnished to injured workers; amending s. 440.19, F.S.; revising procedures for filing a claim for benefits; defining "remedial treatment"; providing legislative intent; prohibiting award of attorney's fees or penalties in specified circumstances; amending s. 440.20, F.S.; revising procedures for payment of compensation; providing penalties; amending s. 440.25, F.S.; revising procedures for mediation conferences; providing conforming language; amending s. 440.26, F.S.; providing a presumption; amending s. 440.271, F.S.; providing for notice to and intervention by the division in certain appeals from orders of judges of compensation claims; creating s. 440.272, F.S.; providing for review of orders of the Industrial Relations Commission; amending s. 440.34, F.S.; limiting the amount of attorney's fees; amending s. 440.37, F.S.; providing penalties for fraudulent representations; amending s. 440.38, F.S.; providing for another method for securing workers' compensation coverage; providing penalties against self-insurance funds for failure to correct certain errors contained in an audit; creating s. 440.381, F.S.; prescribing insurance application forms; establishing minimum requirements for payroll audits and classifications; restricting accessibility to insurance coverage; providing penalties; providing indemnification of the carrier by the employer for certain misrepresentations; amending s. 440.385, F.S.; revising the obligation of the Florida Self-Insurance Guaranty Fund to certain insolvent members; providing for withdrawal of members; deleting obsolete language; creating s. 440.386, F.S.; providing procedures for delinquency, conservation, and liquidation of self-insurers; providing penalties for failure to maintain certain records; amending s. 440.39, F.S.; providing for offsets in certain cases; repealing s. 440.44(8) and (10), F.S., relating to the Workers' Compensation Oversight Board; creating s. 440.4415, F.S.; creating the Workers' Compensation Oversight Board; providing membership, terms, powers, and duties; requiring reports; providing for appointment of a legal counsel to represent the people of the state in specified matters; amending s. 440.43, F.S.; providing penalty for failure to secure insurance coverage; amending s. 440.49, F.S.; extending ability to make request for training and education benefits to carriers; providing limitation period for filing certain claims against the Special Disability Trust Fund; amending s. 440.52, F.S.; providing penalties for insurance carriers for failure to correct certain errors contained in an audit; amending s. 440.56, F.S.; requiring reporting of violations of safety rules; creating s. 440.572, F.S.; authorizing certain self-insurers to assume the liabilities of their contractors and subcontractors; amending s. 440.575, F.S.; requiring filing of reports; amending s. 440.59, F.S.; providing for closed claim reporting; creating s. 440.591, F.S.; providing rulemaking authority; amending ss. 489.114 and 489.510, F.S.; requiring contractors and electrical contractors to provide proof of coverage; requiring notice of cancellation; amending s. 626.611, F.S.; providing grounds for imposing sanctions against insurance agents; amending s. 626.869, F.S.; revising requirements for classroom instruction for workers' compensation insurance adjusters; providing appropriations; providing presumption regarding cost savings; saving ch. 440, F.S., from scheduled repeal; providing effective dates.

—a companion measure, was substituted for CS for SB 2492 and by two-thirds vote read the second time by title.

Senator Jennings moved the following amendment:

Amendment 1—Strike everything after the enacting clause and insert:

Section 1. Effective October 1, 1990, subsection (4) of section 20.13, Florida Statutes, is amended to read:

20.13 Department of Insurance.—There is created a Department of Insurance.

(4) The Division of Insurance Fraud shall enforce the provisions of s. 626.989. *The division shall establish a Bureau of Workers' Compensation Insurance Fraud for the sole purpose of enforcing the provisions of chapter 440 which, if violated, would result in the commission of fraudulent insurance acts.*

Section 2. (1) The Division of Safety within the Department of Labor and Employment Security shall assist in making the workplace a safer place to work and decreasing the frequency and severity of on-the-job injuries.

(2) The Division of Safety shall have the authority to adopt rules for the purpose of assuring safe working conditions for all workers by authorizing the enforcement of effective standards, assisting and encouraging employers to maintain safe working conditions, and by providing for research, information, education, training, and enforcement in the field of safety.

(3) The provisions of chapter 440, Florida Statutes, which pertain to workplace safety shall be applicable to the Division of Safety.

(4) The administrative rules of the Department of Labor and Employment Security pertaining to the function of the Bureau of Industrial Safety and Health which are in effect immediately before the effective date of this act continue in effect as rules of the Division of Safety until specifically amended by the Department of Labor and Employment Security. The Department of Labor and Employment Security shall file amended rules with respect to safety within 6 months after the effective date of this act.

Section 3. Subsection (2) of section 20.171, Florida Statutes, is amended, and subsection (5) is added to said section, to read:

20.171 Department of Labor and Employment Security.—There is created a Department of Labor and Employment Security.

(2) The following divisions, and bureaus within the divisions, of the Department of Labor and Employment Security are established:

(a) Division of Labor, Employment, and Training.

(b) Division of Unemployment Compensation.

(c) Division of Administrative Services.

(d) Division of Workers' Compensation.

(e) Division of Vocational Rehabilitation.

(f) Division of Safety.

(5)(a)1. There is created within the Department of Labor and Employment Security an Industrial Relations Commission, to consist of a presiding judge and four other judges, all to be appointed by the Governor on or before October 1, 1990, and all to serve full time. Each appointee must have the qualifications required by law for Judges of the District Courts of Appeal. In addition to these qualifications, the judges of the Industrial Relations Commission must be substantially experienced in the field of workers' compensation. Initially, the Governor shall appoint two judges for terms of 4 years, two judges for terms of 3 years, and one judge for a term of 2 years. Thereafter, each full-time judge shall be appointed for a term of 4 years, but during the term of office may be removed by the Governor for cause. The Supreme Court Judicial Nominating Commission shall submit a report to the Governor by September 1, 1990, of 15 candidates for the initial five judges' appointments. The Governor shall appoint the individual judges. Prior to the expiration of the term of office of a judge, the conduct of such judge shall be reviewed by the Supreme Court Judicial Nominating Commission. A report of the Supreme Court Judicial Nominating Commission regarding retention shall be furnished to the Governor no later than 6 months prior to the expiration of the term of the judge. If the Supreme Court Judicial Nominating Commission issues a favorable report, the Governor shall reappoint the judge. However, if the Supreme Court Judicial Nominating Commission issues an unfavorable report, the Supreme Court Judicial Nominating Commission shall commence the procedure for issuing a report to the Governor which shall include a list of three candidates for appointment. If a vacancy occurs during an unexpired term of a judge on the Industrial Relations Commissions, the Supreme Court Judicial Nominating Commission shall commence the procedure for issuing a report to the Governor which shall include a list of three candidates for appointment. The Industrial Relations Commission judges are also subject to the jurisdiction of the Judicial Qualifications Commission during their term of office.

2. The presiding judge may, by order filed in the records of the commission and with the approval of the Governor, appoint associate judges to serve as temporary judges of the commission. Such appointment may be made only of a currently commissioned judge of compensation claims. This appointment shall be for such periods of time as not to cause an undue burden on the caseload in the judge's jurisdiction. Each associate judge appointed shall receive no additional pay during the appointment except for expenses incurred in the performance of the additional duties.

3. The total salaries and benefits of all judges of the commission are to be paid from the trust funds created by s. 440.50. Notwithstanding any other provisions of existing law, the judges shall be paid a salary equal to that paid under state law to the judges of the District Courts of Appeal.

(b)1. The commission is vested with all authority, powers, duties, and responsibilities relating to review of orders of judges of compensation claims in workers' compensation proceedings under chapter 440. The Industrial Relations Commission shall review by appeal final orders of judges of compensation claims entered pursuant to chapter 440. All workers' compensation proceedings pending before the First District Court of Appeal shall be transferred to the Industrial Relations Commission on or before January 1, 1991. The commission may hold sessions and conduct hearings at any place within the state. Three judges shall consider each case and the concurrence of two shall be necessary to a decision. Any judge may request an en banc hearing for review of a final order of a judge of compensation claims.

2. The Industrial Relations Commission is assigned to the Department of Labor and Employment Security, but, in the performance of its powers and duties under chapter 440, shall not be subject to control, supervision, or direction by the Department of Labor and Employment Security.

3. The property, personnel, and appropriations related to the commission's specified authority, powers, duties, and responsibilities shall be provided to the commission by the Department of Labor and Employment Security.

(c) The commission shall make such expenditures, including expenditures for personnel services and rent, at the seat of government and elsewhere, for law books, reference materials, periodicals, furniture, equipment, and supplies and for printing and binding, as may be necessary in exercising its authority and powers and carrying out its duties and responsibilities. All such expenditures of the commission shall be allowed and paid as provided in s. 440.50 upon the presentation of itemized vouchers therefor approved by the presiding judge.

(d) The commission may charge, in its discretion, for publications, subscriptions, and copies of records and documents. Such fees shall be deposited in the fund established in s. 440.50.

(e) Presiding judge.—

1. The presiding judge shall exercise administrative supervision over the Industrial Relations Commission and over the judges and other officers of such courts.

2. The presiding judge of the Industrial Relations Commission shall have the power:

a. To assign judges to hear appeals from final orders of judges of compensation claims;

b. To hire and assign clerks and staff;

c. To regulate use of courtrooms;

d. To supervise dockets and calendars; and

e. To do everything necessary to promote the prompt and efficient administration of justice in the courts over which he presides.

3. The presiding judge shall be responsible to the Chief Justice of the Supreme Court for such information as may be required by the Chief Justice, including, but not limited to, caseload, status of dockets, and disposition of cases in the courts over which he presides.

4. The presiding judge shall be selected by a majority of the judges for a term of 2 years. The presiding judge may succeed himself for successive terms.

5. There may be an executive assistant to the presiding judge who shall perform such duties as the presiding judge may direct. Additionally, each judge may have research assistants or law clerks.

(f)1. The commission shall maintain and keep open during reasonable business hours a clerks office, provided in the Capitol or some other suitable building in Leon County for the transaction of its business. All books, papers, records, files, and the seal of the commission shall be kept at this office. The office shall be furnished and equipped by the commission.

2. The Industrial Relations Commission shall appoint a clerk who shall hold his office during the pleasure of the commission. The clerk, before entering upon the discharge of his duties, shall give bond in the sum of $5,000 payable to the Governor or his successor in office, to be approved by a majority of the members of the commission conditioned upon the faithful discharge of the duties of his office, which bond shall be filed in the office of the Secretary of State.

3. The clerk shall be paid an annual salary to be determined in accordance with s. 25.382.

4. The clerk is authorized to employ such deputies and clerical assistants as may be necessary. Their number and compensation must be approved by the commission, and paid from the annual appropriation for the Industrial Relations Commission from the Workers' Compensation Administration Trust Fund.

5. The clerk, upon the filing of a certified copy of a notice of appeal or petition, shall charge and collect a filing fee of $250 for each case docketed, and for copying, certifying, or furnishing opinions, records, papers, or other instruments and for other services the same service charges as provided in s. 28.24. The State of Florida and its agencies, when appearing as appellant or petitioner, are exempt from the filing fee required in this subsection.

6. The clerk of the Industrial Relations Commission is required to prepare a statement of all fees collected in duplicate each month and remit one copy of the statement, together with all fees collected by him, to the Comptroller who shall place the same to the credit of the Workers' Compensation Administration Trust Fund.

(g) The commission shall have a seal for authentication of its orders, awards, and proceedings, upon which shall be inscribed the words "State of Florida–Industrial Relations Commission—Seal," and it shall be judicially noticed.

(h) The commission is expressly authorized to destroy obsolete records of the commission.

(i) Industrial Relations Commission judges shall be reimbursed for traveling expenses as provided in s. 112.061.

(j) The practice and procedure before the commission and the judges of compensation claims shall be governed by rules adopted by the Supreme Court except to the extent that such rules conflict with the provisions of this chapter.

Section 4. Section 440.015, Florida Statutes, is created to read:

440.015 Legislative intent.—It is the intent of the Legislature that the Workers' Compensation Law be interpreted so as to assure the quick and efficient delivery of disability and medical benefits to an injured worker at a reasonable cost to the employer. It is the specific intent of the Legislature that workers' compensation cases be decided on their merits. The workers' compensation system in Florida is based on a mutual renunciation of common-law rights and defenses by employers and employees alike. In addition, it is the intent of the Legislature that the facts in a workers' compensation case are not to be interpreted liberally in favor of either the rights of the injured worker or the rights of the employer. Accordingly, the Legislature hereby declares that disputes concerning the facts in workers' compensation cases are not to be given a broad liberal construction in favor of the employee on the one hand or of the employer on the other hand.

Section 5. Section 440.02, Florida Statutes, is amended to read:

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(1) "Accident" means only an unexpected or unusual event or result, happening suddenly. A mental or nervous injury due to *stress,* fright, or excitement only, or disability or death due to the accidental acceleration or aggravation of a venereal disease or of a disease due to the habitual use of alcohol, ~~or~~ narcotic drugs, *or controlled substances,* shall be deemed not to be an injury by accident arising out of the employment. Where a preexisting disease or anomaly is accelerated or aggravated by an accident arising out of and in the course of employment, only acceleration of death or acceleration or aggravation of the preexisting condition reasonably attributable to the accident shall be compensable, with respect to death or permanent impairment.

(2) "Adoption" or "adopted" means legal adoption prior to the time of the injury.

(3) "Carrier" means any person or fund authorized under s. 440.38 to insure under this chapter and includes a self-insurer *or a commercial self-insurance fund authorized under s. 624.462.*

(4) "Casual" as used in this section shall be taken to refer only to employments when the work contemplated is to be completed in not exceeding 10 working days, without regard to the number of men employed, and when the total labor cost of such work is less than $100.

(5) "Child" includes a posthumous child, a child legally adopted prior to the injury of the employee, and a stepchild or acknowledged child born out of wedlock dependent upon the deceased, but does not include married children unless wholly dependent on him. "Grandchild" means a child as above defined of a child as above defined. "Brother" and "sister" include stepbrothers and stepsisters, halfbrothers and halfsisters, and brothers and sisters by adoption, but does not include married brothers or married sisters unless wholly dependent on the employee. "Child," "grandchild," "brother," and "sister" include only persons who at the time of the death of the deceased employees are under 18 years of age, or under 22 years of age if a full-time student in an accredited educational institution.

(6) "Compensation" means the money allowance payable to an employee or to his dependents as provided for in this chapter.

(7) "Construction industry" means for-profit activities involving the carrying out of any building, clearing, filling, excavation, or substantial improvement in the size or use of any structure or the appearance of any land. When appropriate to the context, "construction" refers to the act of construction or the result of construction. However, "construction" shall not mean a landowner's act of construction or the result of a construction upon his or her own premises, provided such premises are not intended to be sold or resold.

(8) "Date of maximum medical improvement" means the date after which further recovery from, or lasting improvement to, an injury or disease can no longer reasonably be anticipated, based upon reasonable medical probability.

(9) "Death" as a basis for a right to compensation means only death resulting from an injury.

(10) "Disability" means incapacity because of the injury to earn in the same or any other employment the wages which the employee was receiving at the time of the injury.

(11) "Division" means the Division of Workers' Compensation of the Department of Labor and Employment Security.

(12)(a) "Employee" means every person engaged in any employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, including aliens and also including minors, whether lawfully or unlawfully employed.

(b) "Employee" includes any person who is an officer of a corporation and who performs services for remuneration for such corporation within this state, whether or not such services are continuous. However, *except as hereinafter provided,* any officer of a corporation may elect to be exempt from coverage under this chapter by filing written certification of the election with the division as provided in s. 440.05. Services shall be presumed to have been rendered the corporation in cases when such officer is compensated by other than dividends upon shares of stock of such corporation owned by him.

(c) "Employee" includes a sole proprietor or a partner who devotes full time to the proprietorship or partnership and, *except as hereinafter provided,* elects to be included in the definition of employee by filing notice thereof as provided in s. 440.05. *However, partners or sole proprietors actively engaged in the construction industry are considered employees in all instances whether or not the right of election is exercised.*

(d) "Employee" does not include:

1. An independent contractor, *except those independent contractors engaged in the construction industry,* including:

a. An individual who agrees in writing to perform services for a person or corporation without supervision or control as a real estate salesman or agent, if such service by such individual for such person or corporation is performed for remuneration solely by way of commission; ~~and~~

b. Bands, orchestras, and musical and theatrical performers, including disk jockeys, performing in licensed premises as defined in chapter 562, provided a written contract evidencing an independent contractor relationship is entered into prior to the commencement of such entertainment*; and*.

c. An owner/operator of a motor vehicle who transports property under a written contract with a motor carrier which evidences a relationship by which the owner/operator assumes the responsibility of an employer for the performance of the contract, if the owner/operator is required to furnish the necessary motor vehicle equipment and all costs incidental to the performance of the contract, including, but not limited to, fuel, taxes, licenses, repairs, and hired help, and the owner/operator is paid a commission for his transportation service and is not paid by the hour or on some other time-measured basis.

2. A person whose employment is both casual and not in the course of the trade, business, profession, or occupation of the employer.

3. A volunteer, except a volunteer worker for the state or a county, city, or other governmental entity. Notwithstanding the provisions of s. 440.26, a person who does not receive monetary remuneration for his services is presumed to be a volunteer unless there is substantial evidence that a valuable consideration was intended by both employer and

employee. For purposes of this chapter, the term "volunteer" includes, but is not limited to:

a. Persons who serve in private nonprofit agencies and who receive no compensation other than expenses in an amount less than or equivalent to the standard mileage and per diem expenses provided to salaried employees in the same agency or, in the event that such agency does not have salaried employees who receive mileage and per diem, then such volunteers who receive no compensation other than expenses in an amount less than or equivalent to the customary mileage and per diem paid to salaried workers in the community as determined by the division.

b. Volunteers participating in federal programs established pursuant to Pub. L. No. 93-113.

4. Any officer of a corporation who elects to be exempt from coverage under this chapter*; however, no officer of a corporation engaged in the construction industry shall be exempted from coverage under this chapter.*

(13) "Employer" means the state and all political subdivisions thereof, all public and quasi-public corporations therein, every person carrying on any employment, and the legal representative of a deceased person or the receiver or trustees of any person.

(14)(a) "Employment," subject to the other provisions of this chapter, means any service performed by an employee for the person employing him.

(b) "Employment" includes:

1. Employment by the state and all political subdivisions thereof and all public and quasi-public corporations therein, including officers elected at the polls.

2. All private employments in which *four* ~~three~~ or more employees are employed by the same employer or, with respect to the construction industry, all private employment in which one or more employees are employed by the same employer.

3. Volunteer firefighters responding to or assisting with fire or medical emergencies whether or not the firefighters are on duty.

(c) "Employment" does not include service performed by or as:

1. Domestic servants in private homes.

2. Agricultural labor performed on a farm in the employ of a bona fide farmer, or association of farmers, who employs 5 or fewer regular employees and who employs fewer than 12 other employees at one time for seasonal agricultural labor that is completed in less than 30 days, provided such seasonal employment does not exceed 45 days in the same calendar year. The term "farm" includes stock, dairy, poultry, fruit, fur-bearing animals, fish, and truck farms, ranches, nurseries, and orchards. The term "agricultural labor" includes field foremen, timekeepers, checkers, and other farm labor supervisory personnel.

3. Professional athletes, such as professional boxers, wrestlers, baseball, football, basketball, hockey, polo, tennis, jai alai, and similar players, and motorsports teams competing in a motor racing event as defined in s. 549.08.

4. Labor under a sentence of a court to perform community services as provided in s. 316.193.

(15) "Misconduct" includes, but is not limited to, the following, which shall not be construed in pari materia with each other:

(a) Conduct evincing such willful or wanton disregard of an employer's interests as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of his employee; or

(b) Carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design, or to show an intentional and substantial disregard of an employer's interests or of the employee's duties and obligations to his employer.

(16) "Injury" means personal injury or death by accident arising out of and in the course of employment, and such diseases or infection as naturally or unavoidably result from such injury. Damage to dentures, eyeglasses, prosthetic devices, and artificial limbs may be included in this definition only when the damage is shown to be part of, or in conjunction with, an accident. This damage must specifically occur as the result of an accident in the normal course of employment.

(17) "Parent" includes stepparents and parents by adoption, parents-in-law, and any persons who for more than 3 years prior to the death of the deceased employee stood in the place of a parent to him and were dependent on the injured employee.

(18) "Permanent impairment" means any anatomic or functional abnormality or loss, existing after the date of maximum medical improvement, which results from the injury.

(19) "Person" means individual, partnership, association, or corporation, including any public service corporation.

(20) "Self-insurer" means:

(a) Any employer who has secured payment of compensation pursuant to s. 440.38(1)(b) or (6) as an individual self-insurer;

(b) Any employer who has secured payment of compensation through a group self-insurer pursuant to s. 440.57;

(c) Any group self-insurer established pursuant to s. 440.57;

(d) A public utility as defined in s. 364.02 or s. 366.02 that has assumed by contract the liabilities of contractors or subcontractors pursuant to s. 440.571; or

(e) Any local government pool established pursuant to s. 440.575.

(21) "Spouse" includes only a spouse substantially dependent for financial support upon the decedent and living with the decedent at the time of the decedent's injury and death, or substantially dependent upon the decedent for financial support and living apart at that time for justifiable cause.

(22) "Time of injury" means the time of the occurrence of the accident resulting in the injury.

(23) "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the injury *and includes only the wages earned on the job where he is injured and does not include wages from outside or concurrent employment except in the case of a volunteer firefighter*, together with the reasonable value of *housing furnished to the employee by the employer which is the permanent year-round residence of the employee, and gratuities to the extent reported to the employer in writing as taxable income* ~~board, meals, rent, housing, lodging, parking; employer contributions for uniforms or cleaning allowances; employer contributions for legal, life, health, accident, or disability insurance for the employee or dependents, excluding social security benefits; contributions to pension plans to the extent that the employee's rights have vested; any other consideration received from the employer that is considered income under the Internal Revenue Code in effect on January 1, 1987; and gratuities~~ received in the course of employment from others than the employer *and employer contributions for health insurance for the employee or the employee's dependents,* ~~only when such gratuities are received with the knowledge of the employer~~. In employment in which an employee receives consideration other than cash as a portion of this compensation, the reasonable value of such *housing* compensation shall be the actual cost to the employer *or based upon the Fair Market Rent Survey promulgated pursuant to section 8 of the Housing and Urban Development Act of 1974, whichever is less. However, if employer contributions for housing or health insurance are continued after the time of injury, the contributions are not "wages" for the purpose of calculating an employee's average weekly wage.*

(24) "Weekly compensation rate" means and refers to the amount of compensation payable for a period of 7 consecutive days, including any Saturdays, Sundays, holidays, and other nonworking days which fall within such period of 7 consecutive days. When Saturdays, Sundays, holidays, or other nonworking days immediately follow the first 7 days of disability or occur at the end of a period of disability as the last day or days of such period, such nonworking days constitute a part of the period of disability with respect to which compensation is payable.

(25) "Construction design professional" means an architect, professional engineer, landscape architect, or land surveyor, or any corporation, professional or general, that has a certificate to practice in the construction design field from the Florida Department of Professional Regulation.

(26) "Individual self-insurer" means any employer who has secured payment of compensation pursuant to s. 440.38(1)(b) as an individual self-insurer.

(27) "Domestic individual self-insurer" means an individual self-insurer:

(a) Which is a corporation formed under the laws of this state;

(b) Who is an individual who is a resident of this state or whose primary place of business is located in this state; or

(c) Which is a partnership whose principals are residents of this state or whose primary place of business is located in this state.

(28) "Foreign individual self-insurer" means an individual self-insurer:

(a) Which is a corporation formed under the laws of any state, district, territory, or commonwealth of the United States other than this state;

(b) Who is an individual who is not a resident of this state and whose primary place of business is not located in this state; or

(c) Which is a partnership whose principals are not residents of this state and whose primary place of business is not located in this state.

(29) "Department" means the Department of Labor and Employment Security.

(30) "Insolvent member" means an individual self-insurer which is a member of the Florida Self-Insurers Guaranty Association, Incorporated, or which was a member and has withdrawn pursuant to s. 440.385(1)(b), and which has been found insolvent, as defined in paragraph (31)(a), (b), or (c), by a court of competent jurisdiction in this or any other state, or meets the definition of paragraph (31)(d).

(31) "Insolvency" or "insolvent" means:

(a) That all assets of the individual self-insurer, if made immediately available, would not be sufficient to meet all the individual self-insurer's liabilities;

(b) That the individual self-insurer is unable to pay its debts as they become due in the usual course of business;

(c) That the individual self-insurer has substantially ceased or suspended the payment of compensation to its employees as required in this chapter; or

(d) That the individual self-insurer has sought protection under the United States Bankruptcy Code or has been brought under the jurisdiction of a court of bankruptcy as a debtor pursuant to the United States Bankruptcy Code.

(32) "Independent medical exam" means an objective medical evaluation of the injured employee's medical condition and work status. The employer has the right to schedule an independent medical examination with a health care provider of its choice at a reasonable time to assist in determining this status. It includes, but is not limited to, instances when the treating physician has not provided current medical reports; to determine whether overutilization by a health care provider has occurred; whether a change in health care provider is necessary; whether treatment is necessary or the employee appears not to be making appropriate progress in recuperation. The health care provider performing the independent medical examination may not be the health care provider that provides the treatment or followup care, unless an emergency exists.

Section 6. Section 440.055, Florida Statutes, is created to read:

440.055 Annual employer affidavits.—If an employer employs fewer than four employees and chooses not to secure payment of compensation under this chapter, such employer shall file, annually, an affidavit with the division stating that he has not secured payment of compensation under this chapter for his employees. Such affidavit shall also contain the nature of the employer's business, the business address, and the telephone number.

Section 7. Section 440.09, Florida Statutes, is amended to read:

440.09 Coverage.—

(1) Compensation shall be payable under this chapter in respect of disability or death of an employee if the disability or death results from an injury arising out of and in the course of employment. Death resulting from an operation by a surgeon furnished by the employer for the cure of hernia as required in s. 440.15(6) shall for the purpose of this chapter be considered as a death resulting from the accident causing the hernia. Where an accident happens while the employee is employed elsewhere than in this state, which would entitle him or his dependents to compensation if it had happened in this state, the employee or his dependents shall be entitled to compensation if the contract of employment was made in this state, or the employment was principally localized in this state. However, if an employee shall receive compensation or damages under the laws of any other state, nothing herein contained shall be construed so as to permit a total compensation for the same injury greater than is provided herein.

(2) No compensation shall be payable in respect of the disability or death of any employee covered by the Federal Employer's Liability Act, the Longshoremen's and Harbor Worker's Compensation Act, or the Jones Act.

(3) No compensation shall be payable if the injury was occasioned primarily by the intoxication of the employee; by the influence of any narcotic drugs, *controlled substances,* barbiturates, or other stimulants not prescribed by a physician, which affected the employee to such an extent that the employee's normal faculties were impaired; or by the willful intention of the employee to injure or kill himself, herself, or another. If there was at the time of the injury *0.04* ~~0.10~~ percent or more by weight of alcohol in the employee's blood, *or if the employee has a positive confirmation of a nonprescription controlled substance,* it shall be presumed~~, in the absence of substantial evidence to the contrary,~~ that the injury was occasioned primarily by the intoxication of, *or by the influence of the nonprescription controlled substance upon,* the employee. *This presumption may be rebutted by clear and convincing evidence that the intoxication or influence of the nonprescription controlled substance did not contribute to the injury.* Percent by weight of alcohol in the blood shall be based upon grams of alcohol per 100 milliliters of blood.

(4) Where injury is caused by the *failure* ~~willful refusal~~ of the employee to use a safety appliance or observe a safety rule required by statute or lawfully promulgated by the division, and brought prior to the accident to his ~~or her~~ knowledge, or where injury is caused by the *failure* ~~willful refusal~~ of the employee to use a safety appliance *reasonably required* ~~provided~~ by the employer, the compensation as provided in this chapter shall be reduced 25 percent.

(5) The division shall adopt rules governing the manner, means, and frequency of safety inspections and consultations by all carriers and self-insurers.

(6)~~(5)~~ Except as provided in this chapter, no construction design professional who is retained to perform professional services on a construction project, nor any employee of a construction design professional in the performance of professional services on the site of the construction project, shall be liable for any injuries resulting from the employer's failure to comply with safety standards on the construction project for which compensation is recoverable under this chapter, unless responsibility for safety practices is specifically assumed by contracts. The immunity provided by this subsection to any construction design professional shall not apply to the negligent preparation of design plans or specifications.

(7)~~(6)~~(a) To ensure that the workplace is a drug and alcohol free environment and to deter the use of drugs and alcohol at the work place, if the employer has reason to suspect that the injury was occasioned primarily by the intoxication of the employee or by the use of any nonprescription controlled substances as defined in s. 893.02, which affected the employee to the extent that the employee's normal faculties were impaired, the employer may require the employee to submit to a test for the presence of *any or all* nonprescription controlled substances or alcohol in his system. ~~When a nonprescription controlled substance or alcohol is found to be present in the employee's system and the injury was not occasioned primarily by the use of a nonprescription controlled substance or alcohol, 25 percent per week of the employee's indemnity benefits, up to $5,000, shall be paid solely to a DATAP program as defined in s. 397.021 for the rehabilitation of the employee pertaining to the use of nonprescription controlled substances or alcohol.~~

(b) If the injured worker refuses to submit to a test for nonprescription controlled substances or alcohol, it shall be presumed in the absence of clear and convincing evidence to the contrary that the injury was occasioned primarily by the influence of a nonprescription controlled substance or alcohol.

(c)~~(b)~~ The division shall provide by rule for the authorization and regulation of drug testing policies, procedures, and methods *to be used by employers which utilize testing as provided in this section.* ~~Testing of injured employees shall not commence until such rules are adopted.~~

(8)~~(7)~~ If, by operation of s. 440.04, benefits become payable to a professional athlete under this chapter, such benefits shall be reduced or setoff in the total amount of injury benefits or wages payable during the period of disability by the employer under a collective bargaining agreement or contract for hire.

Section 8. Section 440.092, Florida Statutes, is created to read:

440.092 Special requirements for compensability; deviation from employment; traveling employees; recreational and social activities; subsequent intervening accidents; travel to and from work.—

(1) DEVIATION FROM EMPLOYMENT.—An employee who is injured while deviating from the course of his employment, including leaving the employer's premises, is not eligible for benefits unless such deviation is expressly approved by the employer, or unless such deviation or act is in response to an emergency and designed to save life or property.

(2) TRAVELING EMPLOYEES.—An employee who is required to travel in connection with his employment who suffers an injury while in travel status shall be eligible for benefits under this chapter only if the injury arises out of and in the course of his employment while he is actively engaged in the duties of his employment, which shall include travel necessary to and from the place where such duties are to be performed and other activities reasonably required by the travel status.

(3) RECREATIONAL AND SOCIAL ACTIVITIES.—Recreational or social activities are not compensable unless such recreational or social activities are a regular incident of employment and produce a substantial direct benefit to the employer beyond improvement in employee health and morale that is common to all kinds of recreation and social life.

(4) SUBSEQUENT INTERVENING ACCIDENTS.—Injuries caused by a subsequent intervening accident arising from an outside agency which are the direct and natural consequence of the original injury are not compensable unless suffered while traveling to or from a health care provider for the purpose of receiving remedial treatment for the compensable injury.

(5) GOING OR COMING.—An injury suffered while going to or coming from work is not an injury arising out of and in the course of employment whether or not the employer provided transportation if such means of transportation was also available for personal use by the employee, unless the employee was engaged in a special errand or mission for the employer.

Section 9. Section 440.10, Florida Statutes, is amended to read:

440.10 Liability for compensation.—

(1) Every employer coming within the provisions of this chapter, including any brought within the chapter by waiver of exclusion or of exemption, shall be liable for, and shall secure, the payment to his employees, or any physician, surgeon, or pharmacist providing services under the provisions of s. 440.13, of the compensation payable under ss. 440.13, 440.15, and 440.16. *Except as otherwise provided herein,* ~~Every contractor or subcontractor shall, as a condition to receiving a building permit, show proof that he has secured compensation for his employees under this chapter as provided in s. 440.38.~~ in case a contractor sublets any part or parts of his contract work to a subcontractor or subcontractors, all of the employees of such contractor and subcontractor or subcontractors engaged on such contract work shall be deemed to be employed in one and the same business or establishment; and the contractor shall be liable for, and shall secure, the payment of compensation to all such employees, except to employees of a subcontractor who has secured such payment. *Further, any contractor or subcontractor who engages in any public or private construction in the state shall secure and maintain compensation for his employees under this chapter as provided in s. 440.38. In the event a contractor becomes liable for the payment of compensation to the employees of a subcontractor who has failed to secure such payment in violation of s. 440.38, the contractor or other third-party payor shall be entitled to recover from the subcontractor all benefits paid or payable plus interest unless the contractor and subcontractor have agreed in writing that the contractor will provide coverage. A subcontractor who knowingly presents or causes to be presented, any false, fraudulent, or misleading oral or written statement to any person as evidence of compliance with s. 440.38 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.* A subcontractor is not liable for the payment of compensation to the employees of another subcontractor on such contract work and is not protected by the exclusiveness of liability provisions of s. 440.11 from action at law or in admiralty on account of injury of such employee of another subcontractor.

(2) Compensation shall be payable irrespective of fault as a cause for the injury, except as provided in s. 440.09(3).

(3) A person applying for a construction-related permit, including a permit from a state agency, must show proof of compliance under s. 440.38. The permit-issuing authority shall rely on such proof until notified of termination, cancellation, or nonrenewal of coverage by the division. Every 2 months, the division shall notify all permit-issuing authorities of the relevant workers' compensation policy terminations, cancellations, and nonrenewals. Such notification shall include the name of the insured and the policy numbers. Upon notice of noncompliance with s. 440.38, no further permits may be issued until evidence of compliance is provided to the permit-issuing authority.

Section 10. Subsections (1), (2), and (4) of section 440.13, Florida Statutes, are amended to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

(1) As used in this section, the term:

(a) "Health care facility" means any hospital licensed under chapter 395 and any health care institution licensed under chapter 400.

(b) "Health care provider" means a physician or any recognized practitioner who provides skilled services pursuant to the prescription of or under the supervision or direction of a physician.

(c) "Medically necessary" means any service or supply used to identify or treat an illness or injury which is appropriate to the patient's diagnosis, consistent with the location of service and with the level of care provided. The service should be widely accepted by the practicing peer group, should be based on scientific criteria, and should be determined to be reasonably safe. The service may not be of an experimental, investigative, or research nature, except in those instances in which prior approval of the division has been obtained. The division shall promulgate rules providing for such approval on a case-by-case basis when the procedure is shown to have significant benefits to the recovery and well-being of the patient.

(d) "Medicine" means a drug prescribed by an authorized health care provider and includes only a generic drug or single-source patented drug for which there is no generic equivalent, unless the authorized health care provider writes or states that the "brand name," as defined in s. 465.025, is medically necessary.

(e)~~(d)~~ "Peer review" means an evaluation by a peer review committee, after utilization review, of the appropriateness, quality, and cost of health care and health services provided a patient, based on medically accepted standards.

(f)~~(e)~~ "Peer review committee" means a committee composed of physicians licensed under the same authority as the physician who rendered the services being reviewed.

(g)~~(f)~~ "Physician" means a physician licensed under chapter 458, an osteopath licensed under chapter 459, a chiropractor licensed under chapter 460, a podiatrist licensed under chapter 461, an optometrist licensed under chapter 463, or a dentist licensed under chapter 466.

(h)~~(g)~~ "Utilization review" means the evaluation of appropriateness in terms of both the level and the quality of health care and health services provided a patient, based on medically accepted standards. Such evaluation shall be accomplished by means of a system which identifies the utilization of medical services, based on medically accepted standards, and which refers instances of possible inappropriate utilization to the division for referral to a peer review committee or to obtain opinions and recommendations of expert medical consultants, with similar qualifications as those providing the care under review, recommended by the division and approved by the three-member panel referred to in paragraph (4)(a) to review individual cases for which administrative action may be deemed

necessary. Utilization review also includes reviewing cases where medical costs exceed $20,000, reviewing requests for sequential health care by different medical care providers, and reviewing disputes between health care providers and reimbursement sources concerning interpretation of the schedules of maximum reimbursement allowances and coding procedures under said allowances.

(2)(a) Subject to the limitations specified in s. 440.19(1)(b), the employer shall furnish to the employee such medically necessary remedial treatment, care, and attendance by a health care provider and for such period as the nature of the injury or the process of recovery may require, including medicines, medical supplies, durable medical equipment, orthoses, prostheses, and other medically necessary apparatus *and monitoring the recovery process of seriously injured employees to maximize recovery, minimize the disability, and minimize the recovery period without jeopardizing medical stability. However, no health care provider may refer the employee to another health care provider without the prior authorization from the carrier or the employer if self-insured except in cases where emergency care is required.* The carrier shall not deauthorize a health care provider furnished by the employer to provide remedial treatment, care, and attendance, without the agreement of the employer, unless a judge of compensation claims determines that the deauthorization of the health care provider is in the best interests of the injured employee, or a determination has been made that the health care provider is overutilizing care. Overutilization review shall be by physicians licensed under the same licensing chapter as the physician reviewed. Overutilization of health care shall be a basis for deauthorizing such care without order of the judge of compensation claims, provided a determination has been made as provided in this section and alternate medical care has been offered by the employer or carrier. Findings of overutilization as provided in this section shall presumptively establish, in the absence of substantial and compelling evidence to the contrary, that such treatment is not in the best interest of the injured employee. A physician shall be barred from payment under this chapter for treatment of injured employees upon three findings of overutilization. The division may assess a civil penalty of $100 against a carrier which deauthorizes a health care provider who has been authorized by the employer without first obtaining the approval of such deauthorization from the employer or an order from a judge of compensation claims approving the deauthorization. Any list of health care providers developed by a carrier, not including pharmacists, from which health care providers are selected to provide remedial treatment, care, and attendance shall include representation of each type of health care provider defined in s. 440.13(3)(d)1.d., Florida Statutes, 1981, and shall not discriminate against any of the types of health care providers as a class.

(b) If the employer fails to provide such treatment, care, and attendance after request by the injured employee, the employee may do so at the expense of the employer, the reasonableness and the necessity to be approved by a judge of compensation claims. The employee shall not be entitled to recover any amount personally expended for such treatment or service unless he has requested the employer to furnish the same and the employer has failed, refused, or neglected to do so or unless the nature of the injury required such treatment, nursing, and services and the employer or the superintendent or foreman thereof, having knowledge of such injury, has neglected to provide the same. Nor shall any claim for medical, surgical, or other remedial treatment be valid and enforceable unless, within *14* ~~10~~ days following the first treatment, except in cases where first-aid only is rendered, and *within 14 days following each subsequent treatment date* ~~thereafter at such intervals as the division by regulation may prescribe~~, the health care provider or health care facility giving such treatment or treatments furnishes to the employer, or to the carrier if the employer is not self-insured, a report of such injury and treatment on forms prescribed by the division; however, a judge of compensation claims, for good cause, may excuse the failure of the health care provider or health care facility to furnish any report within the period prescribed and may order the payment to such employee of such remuneration for treatment or service rendered as the judge of compensation claims finds equitable. Along with such reports, the health care provider shall furnish a sworn statement that the treatment or services rendered were reasonable and necessary with respect to the bodily injury sustained. The sworn statement shall read as follows: "Under penalty of perjury, I declare that I have read the foregoing; that the facts alleged are true, to the best of my knowledge and belief; and that the treatment and services rendered were reasonable and necessary with respect to the bodily injury sustained."

(c) Each medical report or bill obtained or received by the employer, the carrier, or the injured employee, or the attorney for any of them, with respect to the remedial treatment, care, and attendance of the injured employee, including any report of an examination, diagnosis, or disability evaluation, shall be filed with the Division of Workers' Compensation by a deadline specified by the division and pursuant to rules adopted by the division. The health care provider or health care facility shall also furnish to the injured employee, or to his attorney, on demand, a copy of his office chart, records, and reports and may charge the injured employee an amount authorized by the division for the copies. Each such health care provider or health care facility shall provide to the division such additional information with respect to the remedial treatment, care, and attendance that the division may reasonably request as part of its investigation of a claim filed by an injured worker for benefits under this chapter. Notwithstanding the limitations in s. 455.241 and subject to the limitations in s. 381.609, upon the request of the employer, the carrier, the attorney for either of them, or the rehabilitation provider, the medical records of an injured employee shall be furnished to such persons and the medical condition of the injured employee shall be discussed with such persons, provided the records and the discussions are restricted to conditions relating to the workplace injury or to situations where the employer or carrier has reason to believe there is a probable basis for filing a claim against the Special Disability Trust Fund as a result of such injury and the employee or his attorney has been furnished a copy of such claim. No records so provided or discussions held pursuant to this exemption, or any information contained therein, shall be disclosed to any other person, nor shall the same be discoverable in any civil or criminal action.

(d) A health care provider may not refer any patient for health care goods or services to a partnership, firm, corporation, or other business entity in which the physician or the physician's employer has an equity interest of 10 percent or more. This paragraph does not apply to a referral admitting an injured worker to a medical care facility by a health care provider who has staff privileges or staff membership or to the following types of equity interest:

1. The ownership of registered securities issued by a publicly held corporation, or the ownership of securities issued by a publicly held corporation, the shares of which are traded on a national exchange or the over-the-counter market.

2. An interest in real property resulting in a landlord-tenant relationship between the physician and the entity in which the equity interest is held, unless the rent is determined, in whole or in part, by the business volume or profitability of the tenant or is otherwise unrelated to fair market value.

(e) Each rehabilitation provider shall disclose in writing, at the first meeting of written communication with the employee, any ownership interest or affiliation between the firm that employs the rehabilitation provider and the employer or insurer adjusting or servicing company, including the nature and extent of the affiliation or interest. Each rehabilitation provider shall also disclose in writing to all parties any affiliation, business referral, or other arrangement between the provider and any other party, including any attorney, any health care provider, or any insurance carrier.

(f) Any health care provider who gives a deposition is allowed a witness fee. The amount charged by such witness may not exceed $200. This limitation does not apply to an expert witness who has never provided direct professional services to a party or has provided only direct professional services that were unrelated to the workers' compensation case.

(g) ~~(d)~~ The employer shall provide appropriate professional or nonprofessional custodial care when the nature of the injury so requires *and is performed at the direction and control of a physician. A physician must state that home or custodial care is necessary as a result of the accident and must describe with a reasonable degree of particularity the nature and extent of the duties to be performed. Family members will not be paid for such care unless prescribed by a physician and will only be compensated for such services which go beyond the scope of household duties performed gratuitously by a family member. "Attendant or custodial care" is defined as care usually rendered by trained professional attendants and beyond the scope of household duties.*~~, but family members may not be paid for such care when the services they provide~~

~~do not go beyond those which are normally provided by family members gratuitously.~~

(h)~~(e)~~ The value of nonprofessional attendant or custodial care provided by a family member shall be determined as follows:

1. If the family member is not employed, the per hour value shall be that of the federal minimum wage.

2. If the family member is employed and elects to leave that employment to provide attendant or custodial care, the per hour value of that care shall be at the per hour value of such family member's former employment, not to exceed the per hour value of such care available in the community at large. In no event shall a family member *or a combination of family members* providing nonprofessional attendant or custodial care pursuant to this paragraph be compensated for more than *a total of* 12 hours per day.

"Family member" is defined for purposes of this subsection to be a spouse, father, mother, brother, sister, child, grandchild, father-in-law, mother-in-law, aunt, or uncle.

(i) If there is disagreement in the opinions of the health care providers, if two health care providers have determined that there is no medical evidence to support the claimant's complaints or the need for additional medical treatment, or if two health care providers agree that the employee is able to return to work, then, within 15 days after receipt of the written request of the injured employee, employer, or the carrier, the judge of compensation claims shall order the injured employee to be evaluated by an appropriate health care provider from a list established by the division. The opinion of the health care provider shall be presumed correct unless there is clear and convincing evidence to the contrary as determined by the judge of compensation claims. The medical issues in the evaluation may include the following: what physical restrictions, if any, would be imposed on the employee's employment; whether the injured employee has reached maximum medical improvement; the existence and extent of any permanent physical impairment; and the reasonableness and necessity of any medical treatment previously provided, or to be provided, to the injured employee. The health care provider appointed to conduct the evaluation shall have free and complete access to the medical records of the employee.

1. The division shall establish and periodically review and update lists of duly qualified, board-certified, impartial health care providers to perform evaluations ordered by judges of compensation claims pursuant to this paragraph.

2. The health care provider to conduct the evaluation shall be selected from a blind rotation system established by the division. The health care provider selected shall be from the same medical discipline as the health care provider selected by the employer to provide treatment under s. 440.13(2)(a).

3. A physician or osteopathic physician may not be selected as a health care provider to render evaluations under this paragraph unless such physician or osteopathic physician is currently satisfying the respective financial responsibility requirement pursuant to s. 458.320(1) or (2) or s. 459.0085(1) or (2).

4. Upon the completion of the evaluation by the health care provider, a report shall be sent to the judge of compensation claims within 45 days of the order appointing the health care provider. A copy of the report shall also be furnished to the carrier or employer, if self-insured. For the purpose of determining entitlement to attorney's fees pursuant to s. 440.34, receipt of notice of the claim shall begin to run upon receipt of the medical report submitted by the evaluating health care provider by the carrier or employer, if self-insured.

(4)(a) A three-member panel is created, consisting of the Insurance Commissioner and two members to be appointed by the Governor, subject to confirmation by the Senate, one member who, on account of previous vocation, employment, or affiliation, shall be classified as a representative of employers, the other member who, on account of previous vocation, employment, or affiliation, shall be classified as a representative of employees. The panel~~, after reviewing recommendations from the advisory committee,~~ shall annually determine schedules of maximum reimbursement allowances for such medically necessary remedial treatment, care, and attendance. Reimbursement for all fees and other charges for such treatment, care, and attendance, including treatment, care, and attendance provided by any hospital or other health care provider, shall not exceed the amounts provided by the schedules of maximum reimbursement allowances as determined by the panel and adopted by rule by the department. The schedules shall have statewide applicability and shall be uniform throughout the state. An individual health care provider or hospital shall be paid either his usual charge for treatment, care, and attendance or the maximum reimbursement allowance as set forth in the applicable schedule, whichever is less. *As to reimbursements for prescription medications, the maximum reimbursement amount for a prescription is 90 percent of the average wholesale price, plus $4.59 for the dispensing fee, except that a class II narcotic must be reimbursed at 100 percent of the average wholesale price, plus $4.59 for the dispensing fee.* In determining the schedules, the panel shall first approve the bodies of medical and hospital data which it finds representative of prevailing charges in the state for such treatment, care, and attendance in the state for similar treatment, care, and attendance of injured persons. *All hospitals shall submit their price list masters and formulas which were in effect on January 1, 1990, to the division no later than 30 days after the effective date of this act. Payment of a compensable charge shall be at 80 percent of the hospital's price list master in effect January 1, 1990. Beginning January 1, 1991, and thereafter on each subsequent January 1, all hospitals shall submit to the division their price list masters and formulas, if the division determines that it is necessary, as well as the individual hospital maximum rate of allowable increase in effect on January 1. Beginning March 1, 1991, and each subsequent March 1, payment of compensable charges to a hospital for treatment, care, and attendance shall be at 80 percent of the hospital's price list master and formulas as of January 1, 1990, increased each year by its applicable maximum allowable rate of increase, as defined in s. 407.002(17). The division shall furnish to a carrier, upon payment of a fee sufficient to cover the costs, a copy or computer tape of the price list master, formulas, and individual hospital maximum allowable rates of increase.* ~~In determining the schedule for hospitals after January 1, 1987, the panel shall approve and use charge data submitted by hospitals to the Health Care Cost Containment Board as representative of charges for the treatment, care, and attendance in the state of injured persons. Payment of a compensable charge to a hospital for treatment, care, and attendance not specifically itemized in the applicable schedule shall be at 80 percent of the hospital's usual charge for such treatment, care, and attendance.~~ Each health care provider or health care facility receiving workers' compensation payments shall maintain records verifying their usual charges. Using the approved bodies of data when arrayed, the panel shall establish percentiles upon which the schedules of maximum reimbursement allowances will be calculated. In establishing the schedules of maximum reimbursement allowances, the panel shall consider the following:

1. The levels of reimbursement for similar treatment, care, and attendance made by other health care programs or third-party providers;

2.a. The impact upon cost to employers for providing a level of reimbursement for treatment, care, and attendance which will ensure the availability of treatment, care, and attendance required by injured workers; and

b. The potential change in workers' compensation insurance premiums or costs attributable to the level of treatment, care, and attendance provided; and

3. The financial impact of the reimbursement allowances upon health care providers and health care facilities and its effect upon their ability to make available to injured workers such medically necessary remedial treatment, care, and attendance.

The schedules of maximum reimbursement allowances shall be reasonable, shall promote health care cost containment and efficiency with respect to the workers' compensation health care delivery system, and shall be sufficient to ensure availability of such medically necessary remedial treatment, care, and attendance to injured workers.

~~(b) There is created an advisory committee to aid and assist the panel in determining schedules of maximum charges for hospital and health care provider treatment and services payable through workers' compensation benefits to be appointed by and serve at the pleasure of the Insurance Commissioner.~~

(b)~~(c)~~ The Division of Workers' Compensation of the Department of Labor and Employment Security is empowered to investigate health care providers and health care facilities to determine if they are in compliance with the rules adopted by the division or department or if they are requiring unjustified treatment, hospitalization, or office visits. If the

division finds that a health care provider or health care facility has made such excessive charges or required such treatment, services, hospitalization, or visits, the health care provider or health care facility may not receive payment under this chapter from a carrier, employer, or employee for the excessive fees or unjustified treatment, hospitalization, or visits; furthermore, the health care provider or health care facility is liable to return to the carrier or self-insurer any such fees or charges already collected.

(c)~~(d)~~1. The division shall develop and implement, or contract with a qualified entity to develop and implement, utilization review of the services rendered by a health care provider or a physician, which services are paid for in whole or in part pursuant to this chapter. Utilization review shall be accomplished either by request from any interested party or upon the request of the division. Findings of overutilization shall include deauthorization of the care under review or denial of payment for services rendered in the future, or both. During the utilization review process, the care under review shall continue. Utilization review under this section shall be exempt from the provisions of chapter 120.

2. The division shall contract with a private nonprofit foundation or nonprofit organization to provide peer review or utilization review, as appropriate, of health care and physician services rendered pursuant to this chapter. Under the terms of such contract, the foundation or organization shall establish and maintain a procedure by which a peer review committee shall review the services rendered by a health care provider, physician, or health care facility, which services are paid for in whole or in part pursuant to this chapter. Such review shall occur upon a determination by the division that information referred to it by the entity responsible for utilization review contains reliable information that a health care provider or health care facility is rendering services in a manner which may be inappropriate with respect to either the level or the quality of care. The report and recommendations of the peer review committee shall be submitted to the division for such action as may be necessary in accordance with this section.

3. By accepting payment pursuant to this chapter for remedial treatment rendered to an injured employee, a health care provider or health care facility shall be deemed to consent to submitting all necessary records and other information concerning such treatment to utilization review and peer review as provided by this section. Such health care provider shall further agree to comply with any decision of the division pursuant to subparagraph 4.

4. If it is determined that a physician improperly overutilized, or otherwise rendered or ordered, inappropriate medical treatment or services, or that the reimbursement for such treatment or services was inappropriate, the division may order the physician to show cause why he should not be required to repay the amount which was paid for the rendering or ordering of such treatment or services and shall inform him of his right to a hearing under the provisions of s. 120.57. If a hearing is not requested within 30 days of receipt of the order and the division director decides to proceed with the matter, a hearing shall be conducted, a prima facie case established, and a final order issued. If the final order, including judicial review if the order is appealed, is adverse to the physician, the division shall provide the licensing board of the physician with full documentation of such determination.

5. A health care facility may not improperly charge or overcharge a workers' compensation insurer or charge for services not provided for the purpose of obtaining additional reimbursement.

6. Violations of this section which are willful or which demonstrate a pattern of improperly charging or overcharging workers' compensation insurers constitute grounds for the division or department to impose a fine not to exceed $5,000.

7. The referral by the entity responsible for the utilization review, the decision of the division to refer the matter to the peer review committee, the establishment by the foundation or organization of the procedures by which a peer review committee reviews the rendering of health care services, and the review proceedings, report, and recommendation of the peer review committee are not subject to the provisions of chapter 120.

8. The provisions of s. 766.101 apply to any officer, employee, or agent of the division and to any officer, employee, or agent of any entity with which the division has contracted pursuant to this section.

Section 11. Section 440.135, Florida Statutes, is created to read:

440.135 Pilot programs for medical and remedial care in workers' compensation.—

(1) It is the intent of the Legislature to determine whether the costs of the workers' compensation system can be effectively contained by modifying the delivery systems for the medical, hospital, and remedial care required by s. 440.13 and indemnity benefits required by s. 440.15, while providing injured workers with more prompt and effective care and earlier restoration of earning capacity, without diminution of the quality of such care. Therefore, the Legislature authorizes the establishment of one or more pilot programs in the areas of managed care and 24-hour health insurance and disability insurance to be administered by the Department of Insurance after consulting with the division. The pilot program dealing with 24-hour health insurance shall study the effects of the utilization of deductibles and coinsurance that require the employee to pay a portion of the actual medical care received by the employee. The disability insurance policy in conjunction with the 24-hour health insurance policy must provide indemnity benefits, so that the total coverage afforded by both the 24-hour health insurance policy and the policy providing indemnity benefits provides the total compensation required by this chapter. Each pilot program must terminate 2 years after the first date of operation of the program, unless reenacted by the Legislature. In order to implement these pilot programs, the Department of Insurance shall consult with the division regarding methods of:

(a) Initiating a pilot project basing reimbursement to hospitals on diagnostic-related groups, if a study determines that it is a cost-effective and statistically valid method for reimbursement.

(b) Establishing alternate delivery systems using a health maintenance organization model, which includes physician fees, competitive bidding, or a capitated model.

(c) Controlling and enhancing the selection of providers of medical, hospital, and remedial care.

(d) Establishing, by agreement, appropriate fees for medical, hospital, and remedial care.

(e) Promoting effective and timely utilization of medical, hospital, and remedial care by injured workers.

(f) Coordinating the duration of payment of disability benefits with determination made by qualified participating providers of medical, hospital, or remedial care.

(g) Other methods of monitoring reduced costs within the workers' compensation system while maintaining quality care.

(2) The Department of Insurance, after consulting with the division, may, without a bidding process, negotiate and enter into such contracts as may be necessary or appropriate in its judgment to implement the pilot program.

(3) The Department of Insurance may also accept grants and moneys from any source and may expend such grants and moneys for the purposes of the program.

(4) The pilot programs authorized by subsection (1) may supersede the provisions of s. 440.13 to the extent necessary to carry out the intent and to incorporate the features set forth in subsection (1). However, no provision of the pilot programs may vary the methods for calculating weekly payments for disability compensation under this chapter. Likewise, no provision of the pilot programs shall limit the right to a hearing under s. 440.25.

(5) The Department of Insurance shall make an interim report on or before December 1, 1991, and a final report on or before the termination date specified in subsection (1) to the President of the Senate, the Speaker of the House of Representatives, the minority leader of the Senate, the minority leader of the House of Representatives, and the Governor, on the Department of Insurance's activities, findings, and recommendations relative to the pilot programs. The Department of Insurance shall monitor, evaluate, and report the following information regarding physicians, hospitals, and other remedial care providers:

(a) Cost savings.

(b) Effectiveness.

(c) Effect on earning capacity and indemnity payments.

(d) Complaints from injured workers and providers.

(e) Concurrent review of quality of care.

(f) Other pertinent matters.

The information from the pilot programs shall be reported in a format to permit comparisons to other similar data.

Section 12. Section 440.15, Florida Statutes, is amended to read:

440.15 Compensation for disability.—Compensation for disability shall be paid to the employee, subject to the limits provided in s. 440.12(2), as follows:

(1) PERMANENT TOTAL DISABILITY.—

(a) In case of total disability adjudged to be permanent, 66⅔nt of the average weekly wages shall be paid to the employee during the continuance of such total disability.

(b) Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof or paraplegia or quadriplegia shall, in the absence of conclusive proof of a substantial earning capacity, constitute permanent total disability. In all other cases, permanent total disability shall be determined in accordance with the facts. In such other cases, no compensation shall be payable under paragraph (a) if the employee is engaged in, or is physically capable of engaging in, gainful employment; and the burden shall be upon the employee to establish that he is not able uninterruptedly to do even light work *available within a 100-mile radius of the injured employee's residence* due to physical limitation. *In such other cases, no claim for permanent total disability compensation may be filed until 6 months after the employee has reached maximum medical improvement.*

(c) In cases of permanent total disability resulting from injuries which occurred prior to July 1, 1955, such payments shall not be made in excess of 700 weeks.

(d) If an employee who is being paid compensation for permanent total disability becomes rehabilitated to the extent that he establishes an earning capacity, he shall be paid, instead of the compensation provided in paragraph (a), wage-loss benefits pursuant to paragraph (3)(b). The division shall adopt rules to enable a permanently and totally disabled employee who may have reestablished an earning capacity to undertake a trial period of reemployment without prejudicing his return to permanent total status in the case that such employee is unable to sustain an earning capacity.

(e)1. In case of permanent total disability resulting from injuries ~~which occurred subsequent to June 30, 1955, and~~ for which the liability of the employer for compensation has not been discharged under the provisions of s. 440.20(12), the injured employee shall receive additional weekly compensation benefits equal to 5 percent of his weekly compensation rate, as established pursuant to the law in effect on the date of his injury~~, multiplied by the number of calendar years since the date of injury~~. The weekly compensation payable and the additional benefits payable pursuant to this paragraph, when combined, shall not exceed the maximum weekly compensation rate in effect at the time of payment as determined pursuant to s. 440.12(2). *Entitlement to these supplemental payments shall cease at age 62 if the employee is eligible for social security benefits under 42 U.S.C. ss. 402 and 405, whether or not the employee has applied for such benefits.* These supplemental benefits shall be paid by the division out of the Workers' Compensation Administration Trust Fund when the injury occurred subsequent to June 30, 1955, and before July 1, 1984. These supplemental benefits shall be paid by the employer when the injury occurred on or after July 1, 1984. Supplemental benefits are not payable for any period prior to October 1, 1974.

2.a. The division shall provide by rule for the periodic reporting to the division of all earnings of any nature and social security income by the injured employee entitled to or claiming additional compensation under subparagraph 1. Neither the division nor the employer or carrier shall make any payment of those additional benefits provided by subparagraph 1. for any period during which the employee willfully fails or refuses to report upon request by the division in the manner prescribed by such rules.

b. The division shall provide by rule for the periodic reporting to the employer or carrier of all earnings of any nature and social security income by the injured employee entitled to or claiming benefits for permanent total disability. The employer or carrier shall not be required to make any payment of benefits for permanent total disability for any period during which the employee willfully fails or refuses to report upon request by the employer or carrier in the manner prescribed by such rules.

3. When an injured employee receives a full or partial lump-sum advance of the employee's permanent total disability compensation benefits, the employee's benefits under this paragraph shall be computed on the employee's weekly compensation rate as reduced by the lump-sum advance.

(2) TEMPORARY TOTAL DISABILITY.—

(a) In case of disability total in character but temporary in quality, 66⅔nt of the average weekly wages shall be paid to the employee during the continuance thereof, not to exceed *260* ~~350~~ weeks except as provided in s. 440.12(1).

(b) Notwithstanding the provisions of paragraph (a), an employee who has sustained the loss of an arm, leg, hand, or foot, *has been rendered a paraplegic, paraparetic, quadriplegic, or quadriparetic* ~~or within a reasonable medical certainty the anticipated permanent and total loss of use of such member because of organic damage to the nervous system~~, or has lost the sight of both eyes shall be paid temporary total disability of 80 percent of his average weekly wage ~~until such employee has completed his training in the use of artificial members or appliances as necessary and completed training or education under a program pursuant to s. 440.49, if provided~~. In no event should the increased temporary total disability compensation provided for in this paragraph extend beyond 6 months from the date of *the accident* ~~injury~~. The compensation provided by this paragraph is not subject to the limits provided in s. 440.12(2), but instead is subject to a maximum weekly compensation rate of $700. If, at the conclusion of this period of increased temporary total disability compensation, the employee is still temporarily totally disabled, the employee shall continue to receive temporary total disability compensation as set forth in paragraphs (a) and (c). The period of time the employee has received this increased compensation will be counted as part of, and not in addition to, the maximum periods of time for which the employee is entitled to compensation under paragraph (a) but not paragraph (c).

(c) Temporary total disability benefits paid pursuant to this subsection shall include such period as may be reasonably necessary for training in the use of artificial members and appliances, and shall include such period as the employee may be receiving training and education under a program pursuant to s. 440.49(1). Notwithstanding s. 440.02(8), the date of maximum medical improvement for purposes of paragraph (3)(b) shall be no earlier than the last day for which such temporary disability benefits are paid.

(3) PERMANENT IMPAIRMENT AND WAGE-LOSS BENEFITS.—

(a) Impairment benefits.—

1. In case of permanent impairment due to amputation, loss of 80 percent or more of vision of either eye, after correction, or serious facial or head disfigurement resulting from an injury other than an injury entitling the injured worker to permanent total disability benefits pursuant to subsection (1), there shall be paid to the injured worker the following:

a. Two hundred and fifty dollars for each percent of permanent impairment of the body as a whole from 1 percent through 10 percent; and

b. Five hundred dollars for each percent of permanent impairment of the body as a whole for that portion in excess of 10 percent.

2. Once the employee has reached the date of maximum medical improvement, impairment benefits are due and payable within 20 days after the carrier has knowledge of the impairment.

3. The three-member panel, in cooperation with the division, shall establish and use a uniform disability rating guide by January 1, 1991. This guide shall be based on medically or scientifically demonstrated findings as well as the systems and criteria set forth in the American Medical Association's Guides to the Evaluation of Permanent Impair-

ment; the Snellen Charts, published by American Medical Association Committee for Eye Injuries; and the Minnesota Department of Labor and Industry Disability Schedules. The guide must be more comprehensive than the American Medical Association's Guides to the Evaluation of Permanent Impairment and must expand the areas already addressed and address additional areas not currently contained in the guides.

~~3. In order to reduce litigation and establish more certainty and uniformity in the rating of permanent impairment, the division shall establish and use a schedule for determining the existence and degree of permanent impairment based upon medically or scientifically demonstrable findings. The schedule shall be based on generally accepted medical standards for determining impairment and may incorporate all or part of any one or more generally accepted schedules used for such purpose, such as the American Medical Association's Guides to the Evaluation of Permanent Impairment.~~ On August 1, 1979, and pending the adoption, by rule, of a permanent schedule, Guides to the Evaluation of Permanent Impairment, copyright 1977, 1971, *1988,* by the American Medical Association, shall be the temporary schedule and shall be used for the purposes hereof. *For injuries after July 1, 1990, pending the adoption by division rule of a uniform disability rating guide, the Minnesota Department of Labor and Industry Disability Schedule shall be temporarily used unless that schedule does not address an injury. In such case, the Guides to the Evaluation of Permanent Impairment, copyright 1988, by the American Medical Association, shall be used.*

(b) Wage-loss benefits.—

1. Each injured worker who suffers a permanent impairment, which permanent impairment *is not determined solely on the basis of subjective complaints and results in one or more work-related physical restrictions which are directly attributable to the injury and* is determined pursuant to the schedule adopted in accordance with subparagraph (a)3., may be entitled to wage-loss benefits under this subsection, provided that such permanent impairment results in a work-related physical restriction which affects such employee's ability to perform the activities of his usual or other appropriate employment. Such benefits shall be based on actual wage loss and shall not be subject to the minimum compensation rate set forth in s. 440.12(2). Subject to the maximum compensation rate as set forth in s. 440.12(2), such wage-loss benefits shall be equal to *80* ~~95~~ percent of the difference between *80* ~~85~~ percent of the employee's average weekly wage and the salary, wages, and other remuneration the employee is able to earn after reaching maximum medical improvement, as compared weekly; however, the weekly wage-loss benefits shall not exceed an amount equal to 66⅔ percent of the employee's average weekly wage at the time of injury. In order to simplify the comparison of the preinjury average weekly wage with the salary, wages, and other remuneration the employee is able to earn after reaching maximum medical improvement, the division may by rule provide for the modification of the weekly comparison so as to coincide as closely as possible with the injured worker's pay periods. In determining the amount the employee is able to earn in any month after injury, commissions and similar irregular payments shall be allocated first to the week in which they are received, in an amount which when added to other earnings for such week does not exceed the employee's average weekly wage, and the balance in the same manner to the subsequent weeks until fully allocated, but not to exceed 52 weeks from the week that the commission or a similar irregular payment was received.

2. The amount determined to be the salary, wages, and other remunerations the employee is able to earn after reaching the date of maximum medical improvement shall in no case be less than the sum actually being earned by the employee, including earnings from sheltered employment. ~~Whenever a wage-loss benefit as set forth in subparagraph 1. may be payable, the burden shall be on the employee to establish that any wage-loss claimed is the result of the compensable injury. It shall also be the burden of the employee to show that his inability to obtain employment or to earn as much as he earned at the time of his industrial accident is due to physical limitation related to his accident and not because of economic conditions or the unavailability of employment or his own misconduct. In the event the employee voluntarily limits his income or fails to accept employment commensurate with his abilities, or is terminated from employment due to his own misconduct, it shall be presumed, in the absence of substantial evidence to the contrary, that the salary, wages, and other remuneration that the employee was able to earn for such period that the employee voluntarily limited his income or failed to accept employment commensurate with his abilities or was terminated from employment due to his own misconduct is the amount which would have been earned if the employee had not limited his income or failed to accept appropriate employment or had not been terminated from employment due to his own misconduct. The amount deemed shall be applied against the next two biweekly payments.~~ In the case of an employee who has not voluntarily limited his income or who has not failed to accept employment commensurate with his abilities or who was not terminated from employment due to his own misconduct, and who has made a good faith attempt to find employment after attaining maximum medical improvement but remains unemployed, it shall be presumed that the salary, wages, and other remuneration the employee is able to earn was zero for each week that the employee made a good faith attempt to find employment within his physical and vocational capabilities. *Wage-loss forms and job search reports are to be mailed to the employer, carrier, or servicing agent within 14 days after the time benefits are due. Failure of an employee to timely request benefits and file the appropriate job search forms showing that he looked for work for at least one job per day, 5 days a week (unless a judge of compensation claims determines fewer job searches are justified due to the availability of suitable employment) after the employee has knowledge that a job search is required, whether he has been advised by the employer, carrier, servicing agent, or his attorney, shall result in benefits not being payable during the time that the employee fails to timely file his request for wage loss and the job search reports.* However, beginning on the 13th week after the employee has attained maximum medical improvement, if an employee does not obtain and maintain employment, the employer may show that the salary, wages, and other remuneration the employee is able to earn is greater than zero by proving the existence of actual job openings within a reasonable geographical area which the employee is physically and vocationally capable of performing, in which case the amount the employee is able to earn may be deemed to be the amount the judge of compensation claims finds that the employee could earn in such jobs. The amount deemed shall be applied against the next *three* ~~two~~ biweekly payments.

3. An injured worker requesting wage-loss benefits for any period during which such injured worker was unemployed shall have a duty to make reasonable and good faith efforts to obtain suitable gainful employment on a consistent basis. "Suitable gainful employment" means employment which is reasonably attainable in light of the individual's age, education, personal aptitudes, previous vocational experience, and physical abilities. For any such period, the employer may require the injured worker's request for wage-loss benefits to include verification of the injured worker's efforts to obtain suitable gainful employment, which verification shall be made on forms prescribed by the division. In determining whether the injured worker has made reasonable and good faith efforts to obtain suitable gainful employment, the judge of compensation claims shall consider the availability of suitable employment in the area of the injured worker's residence, the injured worker's access to transportation, and the effect of the injured worker's physical and mental impairments upon his ability to conduct job search activities. Unless otherwise provided under this section, an injured worker requesting wage-loss benefits for any period during which he shall have been unemployed shall not be entitled to such benefits if the injured worker failed or refused to make reasonable and good faith efforts to obtain suitable gainful employment during such period.

4. The right to wage-loss benefits shall terminate *upon the occurrence of the earliest of the following*:

a. As of the end of any 2-year period commencing at any time subsequent to the month when the injured employee reaches the date of maximum medical improvement, unless during such 2-year period wage-loss benefits shall have been payable during at least 3 consecutive months. *This limitations period shall not be tolled or extended by the incarceration of the employee or by virtue of the employee's becoming an inmate of a penal institution.*;

b. For injuries occurring on or before July 1, 1980, 350 weeks after the injured employee reaches the date of maximum medical improvement.; ~~or~~

c. For injuries occurring after July 1, 1980, *but before October 1, 1990,* 525 weeks after the injured employee reaches maximum medical improvement.~~;~~

~~whichever comes first.~~

d. For injuries occurring after June 30, 1990, the employee's eligibility for wage-loss benefits shall be determined according to the following schedule:

(I) Five weeks of eligibility for each percentage of permanent impairment to the body as a whole from 1 percent through 5 percent;

(II) Ten weeks of eligibility for each percentage of permanent impairment to the body as a whole from 6 percent through 10 percent;

(III) Fifteen weeks of eligibility for each percentage of permanent impairment to the body as a whole from 11 percent through 15 percent;

(IV) Twenty weeks of eligibility for each percentage of permanent impairment to the body as a whole from 16 percent through 20 percent;

(V) Twenty-five weeks of eligibility for each percentage of permanent impairment to the body as a whole over 20 percent, but in no case shall the eligibility period exceed 365 weeks. If a dispute arises as to the percentage of permanent impairment, a dispute will be resolved in accordance with s. 440.13.

e. In the case of an employee whose permanent impairment from the injury is at least 1 percent but no more than 20 percent of the body as a whole, the burden is on the employee to demonstrate that his post-injury earning capacity is less than his preinjury average weekly wage and is not the result of economic conditions or the unavailability of employment or of his own misconduct. In the case of an employee whose permanent impairment from the injury is 21 percent or more of the body as a whole, the burden is on the employer to demonstrate that the employee's post-injury earning capacity is more than his preinjury wage.

5. Notwithstanding subparagraph 4., the right to wage-loss benefits shall terminate if, within a 2-year period, there are three occurrences of any of the following incidents:

a. The employee voluntarily terminates his employment for reasons unrelated to his compensable injury;

b. The employee refuses an offer of suitable and reasonable employment within his restrictions and abilities;

c. The employee is terminated from employment due to his own misconduct as defined in s. 440.02; or

d. The employee voluntarily limits his income;

except that each of the three occurrences must be in different biweekly periods. Additionally, for each of the three occurrences, the employee must be disqualified from receiving wage-loss benefits for three biweekly periods.

6. If the employee is terminated for criminal conduct directed toward the employer or a coemployee or criminal conduct which directly affects the employee's ability to perform the activities of his usual or other appropriate employment. For purposes of this subparagraph, the term "criminal conduct" means acts which would be punishable under s. 775.082 or s. 775.083 or could subject the employee to imprisonment under chapter 316. It shall not be necessary that criminal or civil proceedings actually be initiated against the employee for a finding of criminal conduct. However, the burden shall be on the employer to show by clear and convincing evidence that the employee was guilty of such conduct.

~~7.5.~~ If an employee is entitled to both wage-loss benefits and social security retirement benefits under 42 U.S.C. ss. 402 and 405, such social security retirement benefits shall be primary and the wage-loss benefits shall be supplemental only. The sum of the two benefits shall not exceed the amount of wage-loss benefits which would otherwise be payable. For the purposes of termination of wage-loss benefits pursuant to subsubparagraph 4.a., the term "payable" shall be construed to include payment of social security retirement benefits in lieu of wage-loss benefits. However, the reduction of wage-loss benefits under the provisions of this subparagraph is not applicable to any wage-loss benefits payable to an employee for any month subsequent to the month in which the employee reaches the age of 70 years.

~~8.6.~~ Beginning with the 25th month after maximum medical improvement and for the purpose of determining wage-loss benefits, the total wages, salary, and other remuneration for the week in consideration shall be discounted as follows:

a. For those injuries occurring on or after July 1, 1979, and on or before July 1, 1980, by a factor of 3 percent and compounded annually at 3 percent thereafter.~~; and~~

b. For those injuries occurring after July 1, 1980, by a factor of 5 percent and compounded annually at 5 percent thereafter.

However, with respect to any year in which the annual rate of inflation, calculated by using the national Consumer Price Index published by the United States Department of Labor, is less than the applicable discount factor, such rate shall be substituted for such discount factor for that year.

~~9.7.~~ The division shall keep such records and conduct such investigations as are necessary to determine the feasibility of providing additional protection from inflation for workers entitled to wage-loss benefits and shall report its findings to the Legislature not later than February 1, 1988.

(4) TEMPORARY PARTIAL DISABILITY.—

(a) In case of temporary partial disability, benefits shall be based on actual wage loss and shall not be subject to the minimum compensation rate set forth in s. 440.12(2). The compensation shall be equal to *80* ~~95~~ percent of the difference between *80* ~~85~~ percent of the employee's average weekly wage and the salary, wages, and other remuneration the employee is able to earn, as compared weekly; however, the weekly wage-loss benefits shall not exceed an amount equal to 66⅔ percent of the employee's average weekly wage at the time of injury. In order to simplify the comparison of the preinjury average weekly wage with the salary, wages, and other remuneration the employee is able to earn, the division may by rule provide for the modification of the weekly comparison so as to coincide as closely as possible with the injured worker's pay periods. The amount determined to be the salary, wages, and other remuneration the employee is able to earn shall in no case be less than the sum actually being earned by the employee, including earnings from sheltered employment.

(b) Whenever a temporary partial wage-loss benefit as set forth in paragraph (a) may be payable, the burden shall be on the employee to establish that any wage loss claimed is the result of the compensable injury. It shall also be the burden of the employee to show that his inability to obtain employment or to earn as much as he earned at the time of his industrial accident is due to physical limitation related to his accident and not because of economic conditions or the unavailability of employment or his own misconduct. In the event the employee voluntarily limits his income or fails to accept employment commensurate with his abilities, or is terminated from employment due to his own misconduct, it shall be presumed, in the absence of substantial evidence to the contrary, that the salary, wages, and other remuneration that the employee was able to earn for such period that the employee voluntarily limited his income or failed to accept employment commensurate with his abilities or was terminated from employment due to his own misconduct is the amount which would have been earned if the employee had not limited his income or failed to accept appropriate employment or had not been terminated from employment due to his own misconduct. The amount deemed shall be applied against the next two biweekly payments. In the case of an employee who has not voluntarily limited his income or who has not failed to accept employment commensurate with his abilities or who was not terminated from employment due to his own misconduct, and who has made a good faith attempt to find employment but remains unemployed, it shall be presumed that the salary, wages, and other remuneration the employee is able to earn was zero for each week that the employee made a good faith attempt to find employment within his physical and vocational capabilities. However, beginning on the 13th week after the employee has received the first payment of a temporary partial wage-loss benefit, if the employee does not obtain and maintain employment, the employer may show that the salary, wages, and other remuneration the employee is able to earn is greater than zero by proving the existence of actual job openings within a reasonable geographical area which the employee is physically and vocationally capable of performing, in which case the amount the employee is able to earn may be deemed to be the amount the judge of compensation claims finds that the employee could earn in such jobs. The amount deemed shall be applied against the next two biweekly payments.

(c) Such benefits shall be paid during the continuance of such disability, not to exceed a period of *260 weeks* ~~5 years~~.

(5) SUBSEQUENT INJURY.—

(a) The fact that an employee has suffered previous disability, impairment, anomaly, or disease, or received compensation therefor, shall not preclude him from benefits for a subsequent *aggravation or acceleration of the preexisting condition* ~~injury~~ nor preclude benefits for death resulting therefrom, *except that no benefits shall be payable if the employee, at the time of entering into the employment of the employer by whom the benefits would otherwise be payable, falsely represents himself in writing as not having previously been disabled or compensated because of such previous disability, impairment, anomaly, or disease.* Compensation for temporary disability, medical benefits, and wage-loss benefits shall not be subject to apportionment.

(b) If a compensable permanent impairment, or any portion thereof, is a result of aggravation or acceleration of a preexisting condition, or is the result of merger with a preexisting impairment, an employee eligible to receive impairment benefits under paragraph (3)(a) shall receive such benefits for the total impairment found to result, excluding the degree of impairment existing at the time of the subject accident or injury or which would have existed by the time of the impairment rating without the intervention of the compensable accident or injury. The degree of permanent impairment attributable to the accident or injury shall be compensated in accordance with paragraph (3)(a). As used in this paragraph, "merger" means the combining of a preexisting permanent impairment with a subsequent compensable permanent impairment which, when the effects of both are considered together, result in a permanent impairment rating which is greater than the sum of the two permanent impairment ratings when each impairment is considered individually.

(c) If an employee receiving wage-loss benefits suffers a subsequent injury causing temporary disability, both wage-loss benefits and temporary disability benefits shall be payable during the duration of temporary disability. *In calculating the amount of any wage-loss benefits due, the average weekly wage for the subsequent accident shall be deemed to be the salary, wages, and other remuneration the employee is able to earn.*; However, the total benefits payable shall not exceed the maximum compensation rate in effect for temporary disability at the time of the subsequent injury. Any reduction in benefits due to such limit shall be applied first to the wage-loss benefits payable as a result of the prior injury.

(d) If an employee receiving wage-loss benefits suffers a subsequent injury causing an additional compensable wage loss, benefits for each wage loss shall be payable. *In calculating the amount of any wage-loss benefits due, the average weekly wage for the subsequent accident shall be deemed to be the salary, wages, and other remuneration the employee is able to earn.*; However, the total wage-loss benefits payable shall not exceed the maximum compensation rate in effect for permanent disability at the time of the subsequent injury. Any reduction in wage-loss benefits due to such limitation shall be applied first to the benefits payable as a result of the prior injury.

(6) EMPLOYEE REFUSES EMPLOYMENT.—If an injured employee refuses employment suitable to the capacity thereof, offered to or procured therefor, such employee shall not be entitled to any compensation at any time during the continuance of such refusal unless at any time in the opinion of the judge of compensation claims such refusal is justifiable.

(7) EMPLOYEE LEAVES EMPLOYMENT.—If an injured employee, when receiving compensation for temporary partial disability, leaves the employment of the employer by whom he was employed at the time of the accident for which such compensation is being paid, he shall, upon securing employment elsewhere, give to such former employer an affidavit in writing containing the name of his new employer, the place of employment, and the amount of wages being received at such new employment; and, until he gives such affidavit, the compensation for temporary partial disability will cease. The employer by whom such employee was employed at the time of the accident for which such compensation is being paid may also at any time demand of such employee an additional affidavit in writing containing the name of his employer, the place of his employment, and the amount of wages he is receiving; and if the employee, upon such demand, fails or refuses to make and furnish such affidavit, his right to compensation for temporary partial disability shall cease until such affidavit is made and furnished.

(8) EMPLOYEE BECOMES INMATE OF INSTITUTION.—In case an employee becomes an inmate of a public institution, then no compensation shall be payable unless he has dependent upon him for support a person or persons defined as dependents elsewhere in this chapter, whose dependency shall be determined as if the employee were deceased and to whom compensation would be paid in case of death; and such compensation as is due such employee shall be paid such dependents during the time he remains such inmate.

(9) EMPLOYEE ELIGIBLE FOR BENEFITS UNDER THIS CHAPTER AND FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE ACT.—

(a) Weekly compensation benefits payable under this chapter for disability resulting from injuries to an employee who becomes eligible for benefits under 42 U.S.C. s. 423 shall be reduced to an amount whereby the sum of such compensation benefits payable under this chapter and such total benefits otherwise payable for such period to the employee and his dependents, had such employee not been entitled to benefits under this chapter, under 42 U.S.C. ss. 423 and 402, does not exceed 80 percent of the employee's average weekly wage. However, this provision shall not operate to reduce an injured worker's benefits under this chapter to a greater extent than such benefits would have otherwise been reduced under 42 U.S.C. s. 424(a). This reduction of compensation benefits is not applicable to any compensation benefits payable for any week subsequent to the week in which the injured worker reaches the age of 62 years.

(b) If the provisions of 42 U.S.C. s. 424(a) are amended to provide for a reduction or increase of the percentage of average current earnings that the sum of compensation benefits payable under this chapter and the benefits payable under 42 U.S.C. ss. 423 and 402 can equal, the amount of the reduction of benefits provided in this subsection shall be reduced or increased accordingly.

(c) No disability compensation benefits payable for any week, including those benefits provided by paragraph (1)(e), shall be reduced pursuant to this subsection until the Social Security Administration determines the amount otherwise payable to the employee under 42 U.S.C. ss. 423 and 402 and the employee has begun receiving such social security benefit payments. The employee shall, upon demand by the division, the employer, or the carrier, authorize the Social Security Administration to release disability information relating to him and authorize the Division of Unemployment Compensation to release unemployment compensation information relating to him, in accordance with rules to be promulgated by the division prescribing the procedure and manner for requesting the authorization and for compliance by the employee. Neither the division nor the employer or carrier shall make any payment of benefits for total disability or those additional benefits provided by paragraph (1)(e) for any period during which the employee willfully fails or refuses to authorize the release of information in the manner and within the time prescribed by such rules. The authority for release of disability information granted by an employee under this paragraph shall be effective for a period not to exceed 12 months, such authority to be renewable as the division may prescribe by rule.

(d) If compensation benefits are reduced pursuant to this subsection, the minimum compensation provisions of s. 440.12(2) do not apply.

(10) EMPLOYEE ELIGIBLE FOR BENEFITS UNDER THIS CHAPTER WHO HAS RECEIVED OR IS ENTITLED TO RECEIVE UNEMPLOYMENT COMPENSATION.—

(a) No compensation benefits shall be payable for temporary total disability or permanent total disability under this chapter for any week in which the injured employee has received, or is receiving, unemployment compensation benefits.

(b) If an employee is entitled to both wage-loss benefits pursuant to subsection (3), or temporary partial benefits pursuant to subsection (4), and unemployment compensation benefits, such unemployment compensation benefits shall be primary and the wage-loss benefits or temporary partial benefits shall be supplemental only, the sum of the two benefits not to exceed the amount of wage-loss benefits or temporary partial benefits which would otherwise be payable. For purposes of termination of wage-loss benefits pursuant to sub-subparagraph (3)(b)4.a., the term "payable" shall be construed to include payment of unemployment compensation benefits in lieu of income supplement benefits as provided in this subsection.

(11) FULL-PAY STATUS FOR CERTAIN LAW ENFORCEMENT OFFICERS.—Any law enforcement officer as defined in s. 943.10(1), (2),

or (3) and employed only by a state agency who, while acting within the course of employment as provided by s. 440.091, is maliciously or intentionally injured and who thereby sustains a job-connected disability compensable under this chapter shall be carried in full-pay status rather than being required to use sick, annual, or other leave. Full-pay status shall be granted only after submission to the employing agency's head of a medical report which gives a current diagnosis of the employee's recovery and ability to return to work. In no case shall the employee's salary and workers' compensation benefits exceed the amount of the employee's regular salary requirements.

Section 13. Subsection (1) of section 440.16, Florida Statutes, is amended to read:

440.16 Compensation for death.—

(1) If death results from the accident within 1 year thereafter or follows continuous disability and results from the accident within 5 years thereafter, the employer shall pay:

(a) Actual funeral expenses not to exceed $2,500.

(b) Compensation, in addition to the above, in the following percentages of the average weekly wages to the following persons entitled thereto on account of dependency upon the deceased, and in the following order of preference, subject to the limitation provided in subparagraph 2., but such compensation shall be subject to the limits provided in s. 440.12(2), shall not exceed $100,000, and may be less than, but shall not exceed, for all dependents or persons entitled to compensation, 66⅔ percent of the average wage:

1. To the spouse, if there is no child, 50 percent of the average weekly wage, such compensation to cease upon the spouse's death *or remarriage*.

2. To the spouse, if there is a child or children, the compensation payable under subparagraph 1. and, in addition, 16⅔ percent on account of the child or children. However, when the deceased is survived by a spouse and also a child or children, whether such child or children are the product of the union existing at the time of death or of a former marriage or marriages, the *division* ~~judge of compensation claims~~ may provide for the payment of compensation in such manner as may appear to the *division* ~~judge of compensation claims~~ just and proper and for the best interests of the respective parties and, in so doing, may provide for the entire compensation to be paid exclusively to the child or children; and, in the case of death of such spouse, 33⅓ percent for each child.

3. To the child or children, if there is no spouse, 33⅓ percent for each child.

4. To the parents, 25 percent to each, such compensation to be paid during the continuance of dependency.

5. To the brothers, sisters, and grandchildren, 15 percent for each brother, sister, or grandchild.

(c) To the surviving spouse, payment of postsecondary student fees for instruction at any area vocational-technical center established under s. 230.63 for up to 1,800 classroom hours or payment of student fees at any community college established under part III of chapter 240 for up to 80 semester hours. The spouse of a deceased state employee shall be entitled to a full waiver of such fees as provided in ss. 230.645 and 240.345 in lieu of the payment of such fees. The benefits provided for in this paragraph shall be in addition to other benefits provided for in this section and shall terminate 7 years after the death of the deceased employee, or when the total payment in eligible compensation under paragraph (b) has been received. To qualify for the educational benefit under this paragraph, the spouse shall be required to meet and maintain the regular admission requirements of, and be registered at, such area vocational-technical center or community college, and make satisfactory academic progress as defined by the educational institution in which the student is enrolled.

Section 14. Subsection (4) of section 440.185, Florida Statutes, is amended to read:

440.185 Notice of injury or death; reports; penalties for violations.—

(4) *Within 3 days after receipt of notice of injury from the employer or any other indication of a compensable injury which will result in the employee's losing more than 7 days from work, the division shall mail to the injured employee an informational brochure as prescribed by the division which sets forth in clear and understandable language a summary statement of the rights, benefits, and obligations of injured employees and their employers under the Florida Workers' Compensation Law, together with an explanation of its operation. Within 3 days after receipt of a notice of injury from the employer or any other indication of a compensable injury which will result in the employee's losing more than 7 days from work, a carrier or third-party administrator shall mail to the employer an informational brochure as prescribed by the division which sets forth in clear and understandable language a summary statement of the rights, benefits, and obligations of injured employees and their employers under the Florida Workers' Compensation Law.* ~~The division shall review any such notice or indication of injury received; and, if it appears to the division that the injury will result in permanent impairment, the division shall, within 3 days of receipt of such notice or indication of injury, contact the injured worker or a family member serving as personal representative thereof, by telephone if possible, otherwise by mail, in order to discuss the rights and benefits of the injured employee under the Workers' Compensation Law and to assist the injured worker in securing any benefits provided for under this chapter to which such injured worker is entitled.~~ The division shall monitor the furnishing of benefits by the employer or carrier to ascertain that correct benefits are being furnished in cases accepted as compensable injuries. Upon receipt of a request for assistance by the injured worker, the employer, or carrier, or upon its own motion, the division shall be empowered to compel all parties to participate in any conferences held by the division to resolve the issues giving rise to the request for assistance. In the event of controversion or the filing of a claim, the division shall attempt to resolve the claim. If the division determines that it cannot establish the relevant facts necessary to resolve the issues in a claim, the division may curtail its investigation and promptly forward the file to the appropriate judge of compensation claims for any requested hearing on the claim. In either event, the division shall forward the file to the appropriate judge of compensation claims no later than 15 days prior to the date set for such final hearing.

Section 15. Subsection (1) of section 440.19, Florida Statutes, is amended to read:

440.19 Time and procedure for filing claims.—

(1)(a) The right to compensation for disability, rehabilitation, impairment, or wage loss under this chapter shall be barred unless a claim therefor which meets the requirements of paragraph (d) is filed within 2 years after the time of injury, except that, if payment of compensation has been made or remedial treatment or rehabilitative services have been furnished by the employer on account of such injury, a claim may be filed within 2 years after the date of the last payment of compensation or after the date of the last remedial treatment or rehabilitative services furnished by the employer. This limitations period shall not be tolled or extended by the failure of the employer or carrier to file a notice of injury or any other report or notice required to be filed under this chapter or by the failure of the division, the employer, or the carrier to furnish to the employee or other claimant informational materials required under this chapter, unless such omission by the employer or carrier was intentional and done to deprive the employee of benefits due under this chapter.

(b) All rights for remedial attention under this section shall be barred unless a claim therefor which meets the requirements of paragraph (d) is filed with the division within 2 years after the time of injury, except that, if payment of compensation has been made or remedial attention or rehabilitative services have been furnished by the employer without an award on account of such injury, a claim may be filed within 2 years after the date of the last payment of compensation or within 2 years after the date of the last remedial attention or rehabilitative services furnished by the employer; and all rights for remedial attention or rehabilitative services under this section pursuant to the terms of an award shall be barred unless a further claim therefor is filed with the division within 2 years after the entry of such award, except that, if payment of compensation has been made or remedial attention or rehabilitative services have been furnished by the employer under the terms of the award, a further claim may be filed within 2 years after the date of the last payment of compensation or within 2 years after the date of the last remedial attention or rehabilitative services furnished by the employer. However, no statute of limitations shall apply to the right for remedial attention relating to the insertion or attachment of a prosthetic device to any part of the body. Any claim for reimbursement by a provider of remedial attention shall be subject to the limitations of this paragraph. This limitations period shall not be tolled or extended by the failure of the employer or carrier to file

a notice of injury or any other report or notice required to be filed under this chapter or by the failure of the division, the employer, or the carrier to furnish the employee or other claimant informational materials required under this chapter, unless such omission by the employer or carrier was intentional and done to deprive the employee of benefits due under this chapter.

(c) The right to compensation for death under this chapter shall be barred unless a claim therefor which meets the requirements of paragraph (d) is filed within 2 years after the death, except that, if payment of compensation has been made without an award on account of such death, a claim may be filed within 2 years after the date of the last payment. This limitations period shall not be tolled or extended by the failure of the employer or carrier to file a notice of injury or any other report or notice required to be filed under this chapter or by the failure of the division, the employer, or the carrier to furnish the employee or other claimant informational materials required under this chapter, unless such omission by the employer or carrier was intentional and done to deprive the employee of benefits due under this chapter.

(d)*1.* Such claim shall be filed with the division at its Tallahassee office, *with copies furnished to the employer and to his carrier or servicing agent,* and shall contain the names and addresses of the employer and employee, the social security number of the employee, and a statement of the time, date, place, nature, and cause of the injury, or such equivalent information as will put the division, ~~and~~ the employer, *and the carrier or servicing agent* on notice with respect to the identity of the parties, *and shall contain the specific details of the benefits alleged to be due and the basis for those benefits, including:*~~;~~

a. The time period for which compensation was not timely provided.~~;~~

b. The number of weeks of disability claimed.~~;~~

c. The type and source of rehabilitation sought.~~;~~

d. The details of travel costs not paid, *including:*

(I) Specific dates and purposes of the travel.

(II) Means of transportation.

(III) Mileage.

e. The details of medical charges not paid, *including the name and address of the medical provider and the amounts due and the specific dates of treatment or service.*~~;~~

f.(I) The type or nature of medical treatment sought.

(II) The basis and necessity for any medical treatment sought that is in addition to that which is being provided at the time of filing the

(III) The basis and necessity for a request for a change of physician.

(IV) A detailed description of the need for and medical necessity of attendant care.

g. The details of any defect in the calculation of the average weekly wage and the details and basis therefor.

h. A detailed description of the percentage of permanent impairment and corresponding entitlement to increased wage-loss benefits in excess of that which is or has been voluntarily paid by the employer or carrier together with the medical care provider who has diagnosed any increased impairment.~~; and~~

i. Any other benefit, penalty, attorney's fee, or allowance provided by law deemed due *at the time of filing of the claim* but not being furnished.

In addition, such claim must be accompanied by any document or other evidence that supports the claim in the possession of, or statement of the facts known to, the claimant and upon which the claimant intends to rely at a hearing on the merits or other proceeding.

2. A claim may contain a claim for both past benefits and continuing benefits in any benefit category, *but is limited to those* in default *and ripe, due, and owing on the date* ~~at the time~~ the claim is filed.

3. The legislative intent of this paragraph is to avoid needless litigation or delay in benefits by requiring claimants to provide the employer, carrier, self-insurance fund, or servicing agent with sufficient detailed information to facilitate a timely and informed decision with respect to a claim for benefits.

4. Any claim, or portion thereof, not in compliance with this subsection shall be *dismissed* ~~subject to dismissal~~ by the judge of compensation claims upon motion of any interested party *unless the claimant is not represented by counsel. If the claimant is not represented by counsel, the division shall assist the claimant in filing a claim meeting the requirements of this section. However, a motion to dismiss for lack of specificity may not be filed by an employer or carrier prior to the employer's or carrier's furnishing to the claimant a statement of the benefits paid with respect to the claim required by this subsection.* Any such motion to dismiss shall state with particularity why the claim is not in compliance. When any claim is dismissed pursuant to this subsection, the claimant shall be allowed 60 days from the date of the order of dismissal in which to file an amended claim regardless of any other limitation in this chapter.

5. Notwithstanding the provisions of s. 440.34, a judge of compensation claims shall not award an attorney's fee or penalties based on a claim for benefits that does not satisfy the requirements of this subsection.

6. The division shall assist an injured employee who is not represented by counsel in preparing a claim that meets the specificity requirements of this subsection, but shall not act as an advocate in pursuing the claim before the judge of compensation claims.

(e) Any judge of compensation claims receiving a claim for compensation in any form shall, immediately upon receipt of such claim, mail such claim to the division at its office in Tallahassee.

(f) In no event and under no circumstances shall any of the rights of employees under the Workers' Compensation Law be prejudiced or lost by failure or delay of judges of compensation claims in mailing claims in any form to the division in Tallahassee.

Section 16. Section 440.25, Florida Statutes, is amended to read:

440.25 Procedure in respect to claims and hearing requests.—

(1) A claim for compensation or other benefits may be filed with the division at its office in the City of Tallahassee at any time after a notice to controvert is filed by the employer or carrier or at any time after a specific benefit becomes due and is not provided. The judge of compensation claims shall have full power and authority to hear and determine all questions presented in respect to such claims.

(2) Within 10 days after such a claim is filed, the division, in accordance with rules prescribed by it, shall notify the employer and any other person other than the claimant whom the division considers an interested party that a claim has been filed. Such notice may be served personally upon the employer or other person or may be sent to such employer or person by mail.

(3)(a) The division or judge of compensation claims shall make or cause to be made such investigation as is considered necessary in respect to the claim; and, upon request by any interested party, the judge of compensation claims shall order all parties to attend either a mediation conference or a hearing thereof. Any party who requests a mediation conference shall not be precluded from requesting a hearing following the mediation conference should both parties not agree to be bound by the results of the mediation conference.

(b) If the request in paragraph (a) is for a mediation conference, an application for a mediation conference *shall* ~~concerning a claim shall refer to the claim previously filed and~~ state the reasons for requesting the mediation conference and the questions in dispute so that the responding or opposing parties may be notified of the purpose of the mediation conference. *Such mediation conference shall be conducted informally and does not require the use of formal rules of evidence or procedure; and any information from the files, reports, case summaries, mediator's notes, or other communications or materials, oral or written, relating to a mediation conference pursuant to this section obtained by any person performing mediation duties is privileged and confidential and may not be disclosed without the written consent of all parties to the conference. Any research or evaluation effort directed at assessing the mediation program activities or performance must protect the confidentiality of such information. Each party to a mediation conference has a privilege during and after the conference to refuse to disclose and to prevent another from disclosing communications made during the conference*

whether or not the contested issues are successfully resolved. This paragraph shall not be construed to prevent or inhibit the discovery or admissibility of any information that is otherwise subject to discovery or that is admissible under applicable law or rule of procedure, except that any conduct or statements made during a mediation conference or in negotiations concerning the conference are inadmissible in any proceeding under this chapter. The Chief Judge shall select a judge of compensation claims, a general master, or a special master to serve as the mediator. The general master shall be employed on a full-time basis by the office of the Chief Judge. The rate of compensation for a general master shall be at 60 percent of the salary of a judge of compensation claims. A general master must be a member of The Florida Bar and have 3 years' experience in the practice of workers' compensation law in this state. The special master shall be selected from a list prepared by the Chief Judge. The special master must be independent of all parties participating in the mediation conference. A special master must be a member of The Florida Bar and have 3 years' experience in the practice of workers' compensation law in this state. The rate of compensation for a special master shall be $250 per day plus travel and per diem expenses. The special master shall have access to the office, equipment, and supplies of the judge of compensation claims in each district. In the event both parties agree, the results of the mediation conference shall be binding and neither party shall have a right to appeal the results. In the event either party refuses to agree to the results of the mediation conference, the results of the mediation conference as well as the testimony, witnesses, and evidence presented at the conference shall not be admissible at any subsequent proceeding on the claim. The mediator shall not be called in to testify or give deposition to resolve any claim for any hearing before the judge of compensation claims. The fact of requesting or accepting an offer to mediate shall not be admissible as evidence of liability in any collateral or subsequent proceeding on the claim. *The employer may be represented by an attorney at the mediation conference if the employee is also represented by an attorney at the mediation conference.* ~~Neither party may be represented by an attorney at the mediation conference.~~ Any judge who serves as a mediator shall not be permitted to preside at a hearing involving the same claim pursuant to paragraph (c). If a request for mediation is filed, the mediation conference must be held within 45 days after it is filed and the judge, general master, or special master shall give the claimant and other interested parties at least 15 days' notice of such conference, served upon the claimant and other interested parties by mail.

(c) If the request in paragraph (a) is for a hearing, an application for a hearing concerning a claim shall refer to the claim previously filed and state the reasons for requesting a hearing and the questions in dispute which the applicant expects the judge of compensation claims to hear and determine, so that the responding or opposing parties may be notified of the purpose of the hearing. Any application for a hearing not in compliance with this paragraph shall be subject to dismissal upon motion of any interested party. If a request for a hearing is filed, the judge of compensation claims shall hold a hearing within 90 days after it is filed and shall give the claimant and other interested parties at least 15 days' notice of such hearing, served upon the claimant and other interested parties by mail.

1. The judge of compensation claims shall hold a pretrial hearing on a claim no earlier than 30 days after the date of filing and no later than 60 days after such date. The judge of compensation claims shall give the claimant and all other interested parties at least 15 days' advance notice of the hearing by mail. At the pretrial hearing, the judge of compensation claims shall, subject to subparagraph 2., set a date for the final hearing that allows the parties at least 90 days to conduct discovery unless the parties consent to an earlier hearing date.

2. The final hearing must be held and concluded within 120 days after the pretrial hearing. A continuance may be granted only if the requesting party demonstrates that the reason for requesting the continuance arises from circumstances beyond the party's control.

(d) The hearing shall be held in the county where the injury occurred, if the injury occurred in this state, unless otherwise agreed to between the parties and authorized by the judge of compensation claims in the county where the injury occurred. If the injury occurred without the state and is one for which compensation is payable under this chapter, then the hearing above referred to may be held in the county of the employer's residence or place of business, or in any other county of the state which will at the time of forwarding the file for hearing, in the discretion of the Chief Judge, be the most convenient for a hearing. Subsequent to the forwarding of the file to such county, the parties and the judge of compensation claims may agree to transfer such file to a county that is deemed most convenient for a hearing. The hearing shall be conducted by a judge of compensation claims, who shall, within 30 days after such hearing, unless otherwise agreed by the parties, determine the dispute in a summary manner. At such hearing, the claimant and employer may each present evidence in respect of such claim and may be represented by any attorney authorized in writing for such purpose. *The professional reports, records, and bills of a health care provider are admissible into evidence at such hearing; however, this paragraph does not limit or waive any party's right to depose any health care provider in the manner provided by law.* When there is a conflict in the medical evidence submitted at the hearing, the judge of compensation claims may designate a disinterested doctor to submit a report or to testify in the proceeding, after such doctor has reviewed the medical reports and evidence, examined the claimant, or otherwise made such investigation as appropriate. The report or testimony of any doctor so designated by the judge of compensation claims shall be made a part of the record of the proceeding and shall be given the same consideration by the judge of compensation claims as is accorded other medical evidence submitted in the proceeding; and all costs incurred in connection with such examination and testimony may be assessed as costs in the proceeding, subject to the provisions of s. 440.13(4)(a). No judge of compensation claims may make a finding of a degree of permanent impairment that is greater than the greatest permanent impairment rating given the claimant by any examining or treating physician, except upon stipulation of the parties.

(e) The order making an award or rejecting the claim, referred to in this chapter as a "compensation order," shall set forth the findings of ultimate facts and the mandate; and the order need not include any other reason or justification for such mandate. The compensation order shall be filed in the office of the division at Tallahassee. A copy of such compensation order shall be sent by mail to the parties and attorneys of record at the last known address of each, with the date of mailing noted thereon.

(f) Each judge of compensation claims is required to submit a special report to the Chief Judge in each contested workers' compensation case in which the case is not determined within 30 days of final hearing. Said form shall be provided by the Chief Judge and shall contain the names of the judge of compensation claims and of the attorneys involved and a brief explanation by the judge of compensation claims as to the reason for such a delay in issuing a final order. The Chief Judge shall compile these special reports into an annual public report to the Governor, the Secretary of Labor and Employment Security, the Legislature, The Florida Bar, and the appellate district judicial nominating commissions.

(4)(a) Beginning on October 1, 1979, procedures with respect to appeals from orders of judges of compensation claims shall be governed by rules adopted by the Supreme Court. Such an order shall become final 30 days after mailing of copies of such order to the parties, unless appealed pursuant to such rules.

(b) An appellant may be relieved of any necessary filing fee by filing a verified petition of indigency for approval as provided in s. 57.081(1) and may be relieved in whole or in part from the costs for preparation of the record on appeal if, within 15 days after the date notice of the estimated costs for the preparation is served, he files with the judge of compensation claims a verified petition to be relieved of costs. The verified petition relating to record costs shall contain a detailed and sworn statement of all the appellant's assets, liabilities, and income. The appellant's attorney, or the appellant if he is not represented by an attorney, shall include as a part of the verified petition relating to record costs an affidavit or affirmation that, in his opinion, the notice of appeal was filed in good faith and that there is a probable basis for the *Industrial Relations Commission* ~~District Court of Appeal, First District,~~ to find reversible error. A copy of the verified petition relating to record costs shall be served upon the division in Tallahassee and upon all other interested parties. The judge of compensation claims shall promptly conduct a hearing on the verified petition relating to record costs, giving at least 15 days' notice to the appellant, the division, and all other interested parties, all of whom shall be parties to the proceedings. The judge of compensation claims may enter an order without such hearing if no objection is filed by the division or by an interested party within 12 days from the date the verified petition relating to record costs is filed. Such proceedings shall be conducted in accordance with the provisions of this section and with the workers' compensation rules of procedure, to the extent applicable. In the event an insolvency petition is granted, the judge of compensation claims may provide for payment of record costs and filing fees from the

Workers' Compensation Trust Fund pending final disposition of the costs of appeal.

(c) As a condition of filing a notice of appeal to the *Industrial Relations Commission* ~~District Court of Appeal, First District~~, an employer who has not secured the payment of compensation under this chapter in compliance with s. 440.38 shall file with his notice of appeal a good and sufficient bond, as provided in s. 59.13, conditioned to pay the amount of the demand and any interest and costs payable under the terms of the order if the appeal is dismissed, or if the *Industrial Relations Commission* ~~District Court of Appeal, First District,~~ affirms the award in any amount. Upon the failure of such employer to file such bond with the judge of compensation claims or the *Industrial Relations Commission* ~~District Court of Appeal, First District,~~ along with his notice of appeal, the *Industrial Relations Commission* ~~District Court of Appeal, First District,~~ shall dismiss the notice of appeal.

(5) An award of compensation for disability may be made after the death of an injured employee.

(6) An injured employee claiming or entitled to compensation shall submit to such physical examination by a duly qualified physician designated or approved by the judge of compensation claims as the judge of compensation claims may require. The place or places shall be reasonably convenient for the employee. Such physician or physicians as the employee, employer, or carrier may select and pay for may participate in an examination if the employee, employer, or carrier so requests. Proceedings shall be suspended and no compensation shall be payable for any period during which the employee may refuse to submit to examination. Any interested party shall have the right in any case of death to require an autopsy, the cost thereof to be borne by the party requesting it; and the judge of compensation claims shall have authority to order and require an autopsy and may, in his discretion, withhold his findings and award until an autopsy is held.

Section 17. Section 440.26, Florida Statutes, is hereby repealed.

Section 18. Effective January 1, 1991, section 440.271, Florida Statutes, is amended to read:

440.271 Appeal of order of judge of compensation claims.—Review of any order of a judge of compensation claims entered pursuant to this chapter shall be by appeal to the *Industrial Relations Commission* ~~District Court of Appeal, First District~~. Appeals shall be filed in accordance with rules of procedure prescribed by the Supreme Court for review of such orders. The division shall be *given notice of any proceedings pertaining to s. 440.25, regarding indigency, or s. 440.49, regarding the Special Disability Trust Fund, and shall have the right to intervene in any proceedings* ~~made a party respondent to every such proceeding~~.

Section 19. Effective January 1, 1991, section 440.272, Florida Statutes, is created to read:

440.272 Review of orders of Industrial Relations Commission.—Orders of the Industrial Relations Commission shall be subject to review by appeal to the District Court of Appeal, First District. The petition must be filed in accordance with rules of procedure prescribed by the Supreme Court of Florida for review of such orders. The division shall have the right to intervene in any such review. An award of compensation benefits by the Industrial Relations Commission must begin within 7 days after a final decision and continue until the decision is reversed on appeal.

Section 20. Subsection (2) of section 440.34, Florida Statutes, is amended, and subsection (7) is added to said section, to read:

440.34 Attorney's fees; costs; penalty for violations.—

(2) In awarding a reasonable attorney's fee, the judge of compensation claims shall consider only those benefits to the claimant that the attorney is responsible for securing. The amount, statutory basis, and type of benefits obtained through legal representation shall be listed on all attorney's fees awarded by the judge of compensation claims. For purposes of this section, the term "benefits secured" means benefits obtained as a result of the claimant's attorney's legal services rendered in connection with the claim for benefits, *and such benefits are limited to:*

(a) All benefits due and owing at the time the claim was filed.

(b) All benefits not due and owing at the time the claim was filed but which were ripe for adjudication.

(c) In cases in which a carrier or employer denies that an injury occurred for which compensation benefits are payable, all reasonably predictable future benefits obtained.

(d) In cases in which a carrier or employer has suspended the payment of compensation, all reasonably predictable future compensation benefits in the same classification of compensation.

However, such term does not include future medical ~~or rehabilitation~~ benefits to be provided on any date more than 5 years after the date *the claim is filed* ~~a hearing is held to determine the value of the attorney's fee claimed~~.

(7) No judge of compensation claims shall enter an order approving the contents of a retainer agreement that permits the escrowing of any portion of the employee's compensation until benefits have been secured.

Section 21. Subsection (4) is added to section 440.37, Florida Statutes, to read:

440.37 Misrepresentation; fraudulent activities; penalties.—

(4) Any person who willfully makes any false or misleading statement or representation, whether written or oral, required by s. 440.381 for the purpose of avoiding or diminishing the amount of the payment of any workers' compensation premiums to a carrier or self-insurance fund is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 22. Subsections (1), (3), and (5) of section 440.38, Florida Statutes, are amended to read:

440.38 Security for compensation; insurance carriers and self-insurers.—

(1) Every employer shall secure the payment of compensation under this chapter:

(a) By insuring and keeping insured the payment of such compensation with any stock company or mutual company or association or exchange, authorized to do business in the state;

(b) By furnishing satisfactory proof to the division of his financial ability to pay such compensation and receiving an authorization from the division to pay such compensation directly *in accordance with the following provisions:*

1. The division may, as a condition to such authorization, require such employer to deposit in a depository designated by the division either an indemnity bond or securities, at the option of the employer, of a kind and in an amount determined by the division and subject to such conditions as the division may prescribe (which shall include authorization to the division in case of default to sell any such securities sufficient to pay compensation awards or to bring suit upon such bonds) to procure prompt payment of compensation under this chapter. In addition, the division shall require, as a condition to authorization to self-insure, proof that the employer has provided for competent personnel with whom to deliver benefits and to provide a safe working environment. Further, the division shall require such employer to carry reinsurance at levels that will insure the actuarial soundness of such employer in accordance with rules promulgated by the division. The division may by rule require that, in the event of an individual self-insurer's insolvency, such indemnity bonds, securities, and reinsurance policies shall be payable to the Florida Self-Insurers Guaranty Association created pursuant to s. 440.385. Any employer securing compensation in accordance with the provisions of this paragraph shall be known as a self-insurer and shall be classed as a carrier of his own insurance;

2. If the employer fails to maintain the foregoing requirements, the division shall revoke the employer's authority to self-insure, unless the employer provides to the division the certified opinion of an independent actuary who is a member of the American Society of Actuaries as the to the actuarial present value of the employer's determined and estimated future compensation payments based on case reserves, using a 4-percent discount rate, and a qualifying security deposit equal to 1.5 times the value so certified. The employer must thereafter annually provide such a certified opinion until such time as the employer meets the requirements of subparagraph 1. The qualifying security deposit

must be adjusted at the time of each such annual report. Upon the failure of the employer to timely provide such opinion or to timely provide a security deposit in an amount equal to 1.5 times the value certified in the latest opinion, the division shall then revoke such employer's authorization to self-insure, and such failure shall be deemed to constitute an immediate serious danger to the public health, safety, or welfare sufficient to justify the summary suspension of the employer's authorization to self-insure pursuant to s. 120.68.

3. Forthwith upon the suspension or revocation of the employer's authorization to self-insure, the employer shall provide to the division and to the Florida Self-Insurers Guaranty Association, Incorporated, created pursuant to s. 440.385, the certified opinion of an independent actuary who is a member of the American Society of Actuaries of the actuarial present value of the determined and estimated future compensation payments of the employer for claims incurred while the member exercised the privilege of self-insurance, using a discount rate of 4 percent. The employer shall provide such an opinion at 6-month intervals thereafter until such time as the latest opinion shows no remaining value of claims. With each such opinion, the employer shall deposit with the division a qualifying security deposit in an amount equal to the value certified by the actuary. The association has a cause of action against an employer, and against any successor of the employer, who fails to timely provide such opinion or who fails to timely maintain the required security deposit with the division. The association shall recover a judgment in the amount of the actuarial present value of the determined and estimated future compensation payments of the employer for claims incurred while the employer exercised the privilege of self-insurance, together with attorneys' fees. For purposes of this subparagraph, the successor of an employer means any person, business entity, or group of persons or business entities that holds or acquires legal or beneficial title to the majority of the assets or the majority of the shares of the employer.

4. A qualifying security deposit shall consist, at the option of the employer, of:

a. Surety bonds, in a form and containing such terms as prescribed by the division, issued by a corporate surety authorized to transact surety business by the Department of Insurance, and whose policyholders' and financial ratings, as reported in A.M. Best's Insurance Reports, Property-Liability, are not less than "A" and "V," respectively;

b. Certificates of deposit with financial institutions, the deposits of which are insured through the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation;

c. Irrevocable letters of credit in favor of the division issued by financial institutions described in sub-subparagraph b.;

d. Direct obligations of the United States Treasury backed by the full faith and credit of the United States; or

e. Securities issued by this state and backed by the full faith and credit of this state.

The qualifying security deposit shall be held by the division, or by a depository authorized by the division, exclusively for the benefit of worker's compensation claimants. The security shall not be subject to assignment, execution, attachment, or any legal process whatsoever, except as necessary to guarantee the payment of compensation under this chapter. No surety bond may be terminated, and no other qualifying security may be allowed to lapse, without 90 days' prior notice to the division and deposit by the self-insuring employer of other qualifying security of equal value within 10 business days after such notice. The failure to provide such notice or the failure to timely provide qualifying replacement security after such notice constitutes grounds for the division to call or sue upon the surety bond or to act with respect to other pledged security in any manner necessary to preserve its value for the purposes intended by this section, including the exercise of rights under a letter of credit, the sale of any security at then-prevailing market rates, or the withdrawal of funds represented by any certificate of deposit forming part of the qualifying security deposit;

(c) By entering into a contract with a public utility under an approved utility-provided self-insurance program as set forth in s. 440.571 in effect as of July 1, 1983. The division shall adopt rules to implement this paragraph; ~~or~~

(d) By entering into an interlocal agreement with other local governmental entities to create a local government pool pursuant to s. 440.575; *or*~~.~~

(e) By entering into a contract with an individual self-insurer under an approved, individual self-insurer-provided, self-insurance program as set forth in s. 440.571. The division may adopt rules to implement this subsection.

(3)(a) The license of any stock company or mutual company or association or exchange authorized to do insurance business in the state shall for good cause, upon recommendation of the division, be suspended or revoked by the Department of Insurance. No suspension or revocation shall affect the liability of any carrier already incurred.

(b) The division shall suspend or revoke any authorization to a self-insurer for good cause. No suspension or revocation shall affect the liability of any self-insurer already incurred.

(c) Violation of s. 440.381 by a self-insurance fund shall result in the imposition of a fine not exceeding $1,000 per audit if the self-insurance fund fails to act on the audit by correcting errors in employee classifications or accepted applications for coverage if it knew employee classifications were incorrect. Such fines shall be levied by the Division of Workers' Compensation and deposited into the Workers' Compensation Administration Trust Fund.

(5) All insurance carriers authorized to write workers' compensation insurance in this state shall make available, at the written request of the employer, an insurance policy containing *deductibles in the amounts of $500, $1,000, $1,500, $2,000, and $2,500 and* a coinsurance provision *per claim. Any amount of coinsurance* ~~which~~ shall bind the carrier to pay 80 percent, and the employer to pay 20 percent, of the benefits due to an employee for an injury compensable under this chapter *of the amount of benefits exceeding the deductible, up to the limit of $21,000,* ~~up to the amount of $2,500 or $5,000~~. One hundred percent of the medical benefits above *the amount of any deductible and coinsurance,* $2,500 or $5,000, as the case may be, due to an employee for one injury shall be paid *solely* by the carrier. Regardless of any coinsurance or deductible amount, the claim shall be paid by the applicable carrier, which shall then be reimbursed by the employer for any coinsurance or deductible amounts paid by the carrier.~~; and the employer shall be liable for such reimbursement, except for any portion of a claim for medical benefits, up to the employer's liability under the coinsurance or deductible provisions. If a claim or a portion of a claim is for medical benefits, the benefits shall be paid by the employer, and the carrier shall act as guarantor therefor. Payments made by an employer pursuant to a coinsurance provision shall be made within the same time periods as those applicable to a carrier.~~ No insurance carrier shall be required to offer *a deductible or* coinsurance to any employer if, as a result of a credit investigation, the carrier determines that the employer is not sufficiently financially stable to be responsible for payment of such *deductible or* coinsurance amounts. ~~The agent's commission shall be computed and paid on the basis of the policy without a coinsurance provision.~~

Section 23. Section 440.381, Florida Statutes, is created to read:

440.381 Application for coverage; reporting payroll; payroll audit procedures; penalties.—

(1) Applications by an employer to a carrier for coverage required by s. 440.38 shall be made on a form prescribed by the Department of Insurance. The Department of Insurance shall adopt rules by January 1, 1991, for applications for coverage required by s. 440.38. The rules shall provide that an application include information on the employer, the type of business, past and prospective payroll, estimated revenue, previous workers' compensation experience, employee classifications, and any other information necessary to enable a carrier to accurately underwrite the applicant.

(2) The application shall contain a statement that the filing of an application containing false, misleading, or incomplete information with the purpose of avoiding or reducing the amount of premiums for workers' compensation coverage is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The application shall contain

a sworn statement by the employer attesting to the accuracy of the information submitted and acknowledging the provisions of s. 440.37(4).

(3) The Department of Insurance and Department of Labor and Employment Security, working in conjunction, shall establish by rule minimum requirements for audits of payroll and classifications in order to ensure that the appropriate premium is charged for workers' compensation coverage. The rules shall ensure that audits are adequate to provide that all sources of payments to employees, subcontractors, and independent contractors have been reviewed and that the accuracy of classification of employees has been verified. The rules shall provide that employers in all classes other than the construction class be audited not less frequently than biennially and may provide for more frequent audits of employers in specified classifications based on factors such as amount of premium, type of business, loss ratios, or other relevant factors. In no event shall employers in the construction class, generating more than the amount of premium required to be experience-rated, be audited less than annually. The annual audits required for construction classes shall consist of a physical onsite audit for the years 1991-1993. Payroll verification audit rules shall include, but not be limited to, the use of state and federal reports of employee income, payroll and other accounting records, certificates of insurance maintained by subcontractors, and duties of employees.

(4) Each employer must submit a copy of the quarterly earning report required by chapter 443 at the end of each quarter to the carrier and submit self-audits supported by the quarterly earnings reports required by chapter 443 and the rules of the Division of Unemployment Compensation. Such reports shall include a sworn statement by an officer or principal of the employer attesting to the accuracy of the information contained in the report.

(5) An employer shall make available all records necessary for the payroll verification audit and permit the auditor to make a physical inspection of the employer's operation. If the employer fails upon request of the auditor to provide access to the documents specified in this section and the carrier cannot complete the audit as a result, the employer shall pay $500 to the carrier to defray the costs of the audits.

(6)(a) An employer is not entitled to workers' compensation insurance if it has an outstanding obligation for any workers' compensation premium on previous insurance which has been adjudicated as due and owing by a court of competent jurisdiction.

(b) No insurer in the voluntary market may insure such employer until that obligation is satisfied.

(7) If an employer intentionally understates payroll or misrepresents employee duties so as to avoid proper classification for premium calculations, the employer shall pay in addition to any additional premium due resulting from an audit, a 12-percent penalty on the amount underpaid. The penalty shall be paid to the carrier.

(8) If an employee suffering a compensable injury was not reported as earning wages on the last quarterly earnings report filed with the Division of Unemployment Compensation before the accident, the employer shall indemnify the carrier for all workers' compensation benefits paid to or on behalf of the employee unless the employer establishes that the employee was hired after the filing of the quarterly report, in which case the employer and employee shall attest to the fact that the employee was employed by the employer at the time of the injury. It shall be the responsibility of the Division of Workers' Compensation to collect all necessary data so as to enable it to notify the carrier of the name of an injured employee who was not reported as earning wages on the last quarterly earnings report. The division is hereby authorized to release such records to the carrier which will enable the carrier to seek reimbursement as provided under this subsection. Failure of the employer to indemnify the insurer within 21 days of demand by the insurer shall constitute grounds for the insurer to immediately cancel coverage. Any action for indemnification brought by the carrier shall be cognizable in the circuit court having jurisdiction where the employer or carrier resides or transacts business. The insurer shall be entitled to a reasonable attorney's fee if it recovers any portion of the benefits paid in such action.

(9) If an employer fails to provide reasonable access to payroll records for a payroll verification audit, the employer shall pay a premium to the carrier not to exceed three times the most recent estimated annual premium.

Section 24. Section 440.385, Florida Statutes, is amended to read:

440.385 Florida Self-Insurers Guaranty Association, Incorporated.—

(1) CREATION OF ASSOCIATION.—

(a) There is created a nonprofit corporation to be known as the "Florida Self-Insurers Guaranty Association, Incorporated," hereinafter referred to as "the association." Upon incorporation of the association, all individual self-insurers as defined in ss. 440.02(20)(a) and 440.38(1)(b), other than individual self-insurers which are public utilities or governmental entities, shall be members of the association as a condition of their authority to individually self-insure in this state. The association shall perform its functions under a plan of operation as established and approved under subsection (5) and shall exercise its powers and duties through a board of directors as established under subsection (2). The corporation shall have those powers granted or permitted corporations not for profit, as provided in chapter 617.

(b) A member may voluntarily withdraw from the association when *the member voluntarily* ~~he~~ terminates his self-insurance privilege and pays all assessments due to the date of such termination. However, *the withdrawing* ~~any such~~ member ~~desiring to so withdraw~~ shall continue to be bound by the provisions of this section relating to the period of his membership and any claims charged pursuant thereto. *The withdrawing member who is a member on or after January 1, 1991, shall also be required to provide to the division upon withdrawal, and at 12-month intervals thereafter, satisfactory proof that it continues to meet the standards of s. 440.38(1)(b)1. in relation to claims incurred while the withdrawing member exercised the privilege of self-insurance. Such reporting shall continue until the withdrawing member satisfies the division that there is no remaining value to claims incurred while the withdrawing member was self-insured. If during this reporting period the withdrawing member fails to meet the standards of s. 440.38(1)(b)1., the withdrawing member who is a member on or after January 1, 1991, shall thereupon, and at 6-month intervals thereafter, provide to the division and the association the certified opinion of an independent actuary who is a member of the American Society of Actuaries of the actuarial present value of the determined and estimated future compensation payments of the member for claims incurred while the member was a self-insurer, using a discount rate of 4 percent. With each such opinion, the withdrawing member shall deposit with the division security in an amount equal to the value certified by the actuary and of a type that is acceptable for qualifying security deposits under s. 440.38(1)(b). The withdrawing member shall continue to provide such opinions and to provide such security until such time as the latest opinion shows no remaining value of claims. The association has a cause of action against a withdrawing member, and against any successor of a withdrawing member, who fails to timely provide the required opinion or who fails to maintain the required deposit with the division. The association shall be entitled to recover a judgment in the amount of the actuarial present value of the determined and estimated future compensation payments of the withdrawing member for claims incurred during the time that the withdrawing member exercised the privilege of self-insurance, together with reasonable attorneys' fees. For purposes of this section, the successor of a withdrawing member means any person, business entity, or group of persons or business entities that holds or acquires legal or beneficial title to the majority of the assets or the majority of the shares of the withdrawing member.*

(2) BOARD OF DIRECTORS.—The board of directors of the association shall consist of nine persons and shall be organized as established in the plan of operation. With respect to initial appointments, the Secretary of Labor and Employment Security shall, by July 15, 1982, approve and appoint to the board persons who are experienced with self-insurance in this state and who are recommended by the individual self-insurers in this state required to become members of the association pursuant to the provisions of paragraph (1)(a). In the event the secretary finds that any person so recommended does not have the necessary qualifications for service on the board and a majority of the board has been appointed, the secretary shall request the directors thus far approved and appointed to recommend another person for appointment to the board. Each director shall serve for a 4-year term and may be reappointed. Appointments other than initial appointments shall be made by the Secretary of Labor and Employment Security upon recommendation of members of the association. Any vacancy on the board shall be filled for the remaining period of the term in the same manner as appointments other than initial appointments are made. Each director shall be reimbursed for expenses incurred in carrying out the duties of the board on behalf of the association.

(3) POWERS AND DUTIES.—

(a) Upon creation of the Insolvency Fund pursuant to the provisions of subsection (4), the association is obligated *for payment of compensation under this chapter to insolvent members' employees resulting from incidents and injuries* ~~to the extent of covered claims~~ existing prior to the *member's becoming an insolvent member and from incidents and injuries occurring within 30 days after the member has become an insolvent member* ~~final adjudication of insolvency and arising within 30 days after the determination of insolvency~~, provided the *incidents giving rise to* claims *for compensation under this chapter* occur during the year in which such insolvent member is a member of the guaranty fund and was assessable pursuant to the plan of operation, *and provided the employee makes timely claim for such payments according to procedures set forth by a court of competent jurisdiction over the delinquency or bankruptcy proceedings of the insolvent member.* Such obligation includes only that amount due the injured worker or workers of the insolvent member under this chapter. In no event is the association obligated to a claimant in an amount in excess of the obligation of the insolvent *member* ~~employer~~. The association shall be deemed the insolvent employer *for purposes of this chapter* to the extent of its obligation on the covered claims and, to such extent, shall have all rights, duties, and obligations of the insolvent employer as if the employer had not become insolvent. However, in no event shall the association be liable for any penalties or interest.

(b) The association may:

1. Employ or retain such persons as are necessary to handle claims and perform other duties of the association.

2. Borrow funds necessary to effect the purposes of this section in accord with the plan of operation.

3. Sue or be sued.

4. Negotiate and become a party to such contracts as are necessary to carry out the purposes of this section.

5. Purchase such reinsurance as is determined necessary pursuant to the plan of operation.

6. Review all applicants for membership in the association. Prior to a final determination by the Division of Workers' Compensation as to whether or not to approve any applicant for membership in the association, the association may issue opinions to the division concerning any applicant, which opinions shall be considered by the division prior to any final determination.

~~7. Develop guidelines to determine when a member is considered to be insolvent for purposes of this section. Pursuant thereto, "insolvent" means that all assets of the member, if made immediately available, would not be sufficient to meet all the member's liabilities or that the member is unable to pay its debts as they become due in the usual course of business and, in either event, that the member cannot pay claims of employees as required in this chapter.~~

~~7.~~8. Charge fees to any member of the association to cover the actual costs of examining the financial and safety conditions of that member.

~~8.~~9. Charge an applicant for membership in the association a fee sufficient to cover the actual costs of examining the financial condition of the applicant.

(c)1. To the extent necessary to secure funds for the payment of covered claims and also to pay the reasonable costs to administer them, the Department of Labor and Employment Security, upon certification of the board of directors, shall levy assessments based on the annual normal premium each employer would have paid had he not been self-insured. Every assessment shall be made as a uniform percentage of the figure applicable to all individual self-insurers, provided that the assessment levied against any self-insurer in any one year shall not exceed 1 percent of the annual normal premium during the calendar year preceding the date of the assessment. Assessments shall be remitted to and administered by the board of directors in the manner specified by the approved plan. Each employer so assessed shall have at least 30 days' written notice as to the date the assessment is due and payable. The association shall levy assessments against any newly admitted member of the association so that the basis of contribution of any newly admitted member is the same as previously admitted members, provision for which shall be contained in the plan of operation.

2. If, in any one year, funds available from such assessments, together with funds previously raised, are not sufficient to make all the payments or reimbursements then owing, the funds available shall be prorated, and the unpaid portion shall be paid as soon thereafter as sufficient additional funds become available.

3. No state funds of any kind shall be allocated or paid to the association or any of its accounts except those state funds accruing to the association by and through the assignment of rights of an insolvent employer.

(4) INSOLVENCY FUND.—Upon the adoption of a plan of operation or the adoption of rules by the Department of Labor and Employment Security pursuant to subsection (5), there shall be created an Insolvency Fund to be managed by the association.

(a) The Insolvency Fund is created for purposes of meeting the obligations of insolvent members incurred while members of the association and after the exhaustion of any bond, as required under this chapter. However, if such bond, surety, or reinsurance policy is payable to the Florida Self-Insurers Guaranty Association, the association shall commence to provide benefits out of the Insolvency Fund and be reimbursed from the bond, surety, or reinsurance policy. The method of operation of the Insolvency Fund shall be defined in the plan of operation as provided in subsection (5).

(b) The department shall have the authority to audit the financial soundness of the Insolvency Fund annually.

(c) The department may offer certain amendments to the plan of operation to the board of directors of the association for purposes of assuring the ongoing financial soundness of the Insolvency Fund and its ability to meet the obligations of this section.

(d) The department actuary may make certain recommendations to improve the orderly payment of claims.

(5) PLAN OF OPERATION.—By September 15, 1982, the board of directors shall submit to the Department of Labor and Employment Security a proposed plan of operation for the administration of the association and the Insolvency Fund.

(a) The purpose of the plan of operation shall be to provide the association and the board of directors with the authority and responsibility to establish the necessary programs and to take the necessary actions to protect against the insolvency of a member of the association. In addition, the plan shall provide that the members of the association shall be responsible for maintaining an adequate Insolvency Fund to meet the obligations of insolvent members provided for under this act and shall authorize the board of directors to contract and employ those persons with the necessary expertise to carry out this stated purpose.

(b) The plan of operation, and any amendments thereto, shall take effect upon approval in writing by the department. If the board of directors fails to submit a plan by September 15, 1982, or fails to make required amendments to the plan within 30 days thereafter, the department shall promulgate such rules as are necessary to effectuate the provisions of this subsection. Such rules shall continue in force until modified by the department or superseded by a plan submitted by the board of directors and approved by the department.

(c) All member employers shall comply with the plan of operation.

(d) The plan of operation shall:

1. Establish the procedures whereby all the powers and duties of the association under subsection (3) will be performed.

2. Establish procedures for handling assets of the association.

3. Establish the amount and method of reimbursing members of the board of directors under subsection (2).

4. Establish procedures by which claims may be filed with the association and establish acceptable forms of proof of covered claims. Notice of claims to the receiver or liquidator of the insolvent employer shall be deemed notice to the association or its agent, and a list of such claims shall be submitted periodically to the association or similar organization in another state by the receiver or liquidator.

5. Establish regular places and times for meetings of the board of directors.

6. Establish procedures for records to be kept of all financial transactions of the association and its agents and the board of directors.

7. Provide that any member employer aggrieved by any final action or decision of the association may appeal to the department within 30 days after the action or decision.

8. Establish the procedures whereby recommendations of candidates for the board of directors shall be submitted to the department.

9. Contain additional provisions necessary or proper for the execution of the powers and duties of the association.

(e) The plan of operation may provide that any or all of the powers and duties of the association, except those specified under subparagraphs (d)1. and 2., be delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this association or its equivalent in two or more states. Such a corporation, association, or organization shall be reimbursed as a servicing facility would be reimbursed and shall be paid for its performance of any other functions of the association. A delegation of powers or duties under this subsection shall take effect only with the approval of both the board of directors and the department and may be made only to a corporation, association, or organization which extends protection which is not substantially less favorable and effective than the protection provided by this section.

(6) POWERS AND DUTIES OF DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY.—

(a) The department shall:

1. Notify the association of the existence of an insolvent employer not later than 3 days after it receives notice of the determination of insolvency.

2. Upon request of the board of directors, provide the association with a statement of the annual normal premiums of each member employer.

(b) The department may:

1. Require that the association notify the member employers and any other interested parties of the determination of insolvency and of their rights under this section. Such notification shall be by mail at the last known address thereof when available; but, if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation shall be sufficient.

2. Suspend or revoke the authority of any member employer failing to pay an assessment when due or failing to comply with the plan of operation to self-insure in this state. As an alternative, the department may levy a fine on any member employer failing to pay an assessment when due. Such fine shall not exceed 5 percent of the unpaid assessment per month, except that no fine shall be less than $100 per month.

3. Revoke the designation of any servicing facility if the department finds that claims are being handled unsatisfactorily.

(7) EFFECT OF PAID CLAIMS.—

(a) Any person who recovers from the association under this section shall be deemed to have assigned his rights to the association to the extent of such recovery. Every claimant seeking the protection of this section shall cooperate with the association to the same extent as such person would have been required to cooperate with the insolvent *member* ~~employer~~. The association shall have no cause of action against the employee of the insolvent *member* ~~employer~~ for any sums the association has paid out, except such causes of action as the insolvent *member* ~~employer~~ would have had if such sums had been paid by the insolvent *member* ~~employer~~. In the case of an insolvent *member* ~~employer~~ operating on a plan with assessment liability, payments of claims by the association shall not operate to reduce the liability of the insolvent *member* ~~employer~~ to the receiver, liquidator, or statutory successor for unpaid assessments.

(b) The receiver, liquidator, or statutory successor of an insolvent *member* ~~employer~~ shall be bound by settlements of covered claims by the association or a similar organization in another state. The court having jurisdiction shall grant such claims priority against the assets of the insolvent *member* ~~employer~~ equal to that to which the claimant would have been entitled in the absence of this section. The expense of the association or similar organization in handling claims shall be accorded the same priority as the expenses of the liquidator.

(c) The association shall file periodically with the receiver or liquidator of the insolvent *member* ~~employer~~ statements of the covered claims paid by the association and estimates of anticipated claims on the association, which shall preserve the rights of the association against the assets of the insolvent *member* ~~employer~~.

(8) PREVENTION OF INSOLVENCIES.—To aid in the detection and prevention of employer insolvencies:

(a) Upon determination by majority vote that any member employer may be insolvent or in a financial condition hazardous to the employees thereof or to the public, it shall be the duty of the board of directors to notify the Department of Labor and Employment Security of any information indicating such condition.

(b) The board of directors may, upon majority vote, request that the department determine the condition of any member employer which the board in good faith believes may no longer be qualified to be a member of the association. Within 30 days of the receipt of such request or, for good cause shown, within a reasonable time thereafter, the department shall make such determination and shall forthwith advise the board of its findings. Each request for a determination shall be kept on file by the department, but the request shall not be open to public inspection prior to the release of the determination to the public.

(c) It shall also be the duty of the department to report to the board of directors when it has reasonable cause to believe that a member employer may be in such a financial condition as to be no longer qualified to be a member of the association.

(d) The board of directors may, upon majority vote, make reports and recommendations to the department upon any matter which is germane to the solvency, liquidation, rehabilitation, or conservation of any member employer. Such reports and recommendations shall not be considered public documents.

(e) The board of directors may, upon majority vote, make recommendations to the department for the detection and prevention of employer insolvencies.

(f) The board of directors shall, at the conclusion of any *member's* ~~employer~~ insolvency in which the association was obligated to pay covered claims, prepare a report on the history and cause of such insolvency, based on the information available to the association, and shall submit such report to the department.

(9) EXAMINATION OF THE ASSOCIATION.—The association shall be subject to examination and regulation by the Department of Labor and Employment Security. No later than March 30 of each year, the board of directors shall submit a financial report for the preceding calendar year in a form approved by the department.

(10) IMMUNITY.—There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member employer, the association or its agents or employees, the board of directors, or the Department of Labor and Employment Security or its representatives for any action taken by them in the performance of their powers and duties under this section.

(11) STAY OF PROCEEDINGS; REOPENING OF DEFAULT JUDGMENTS.—All proceedings in which an insolvent employer is a party, or is obligated to defend a party, in any court or before any quasi-judicial body or administrative board in this state shall be stayed for up to 6 months, or for such additional period from the date the *employer becomes an insolvent member* ~~insolvency is adjudicated~~, as is deemed necessary by a court of competent jurisdiction to permit proper defense by the association of all pending causes of action as to any covered claims arising from a judgment under any decision, verdict, or finding based on the default of the insolvent *member* ~~employer~~. The association, either on its own behalf or on behalf of the insolvent *member* ~~employer~~, may apply to have such judgment, order, decision, verdict, or finding set aside by the same court or administrator that made such judgment, order, decision, verdict, or finding and shall be permitted to defend against such claim on the merits. If requested by the association, the stay of proceedings may be shortened or waived.

(12) LIMITATION ON CERTAIN ACTIONS.—Notwithstanding any other provision of this chapter, a covered claim, as defined herein, with respect to which settlement is not effected and pursuant to which suit is not instituted against the insured of an insolvent *member* ~~employer~~ or the association within 1 year after the deadline for filing

claims with the receiver of the insolvent *member* ~~employer~~, or any extension of the deadline, shall thenceforth be barred as a claim against the association.

(13) CORPORATE INCOME TAX CREDIT.—

~~(a) A member may offset against its corporate income tax liability to the state any assessment levied under paragraph (3)(c) to the extent of such taxes paid in the current year, but in no event shall the credit for any year exceed 1 percent of the annual normal premium of the member had it not been self-insured. The provisions of this paragraph shall expire and be void on July 1, 1987.~~

~~(b)~~ Any sums acquired by a member by refund, dividend, or otherwise from the association shall be payable within 30 days of receipt to the Department of Revenue for deposit with the Treasurer to the credit of the General Revenue Fund. All provisions of chapter 220 relating to penalties and interest on delinquent corporate income tax payments apply to payments due under this subsection.

Section 25. Section 440.386, Florida Statutes, is created to read:

440.386 Individual self-insurers' insolvency; conservation; liquidation.—

(1) JURISDICTION OF DELINQUENCY PROCEEDING VENUE; CHANGE OF APPEAL.—

(a) The circuit court shall have original jurisdiction in any delinquency proceeding under this section, and any court with jurisdiction is authorized to make all necessary or proper orders to carry out the purposes of this section.

(b) The venue of a delinquency proceeding or summary proceeding against a domestic or foreign individual self-insurer shall be in the Circuit Court of Leon County.

(c) An appeal shall be to the District Court of Appeal, First District, from an order granting or refusing liquidation or conservation and from every order in a delinquency proceeding having the character of a final order as to the particular portion of the proceeding embraced therein.

(2) COMMENCEMENT OF DELINQUENCY PROCEEDING.—The department may commence any such proceeding by application to the court for an order directing the individual self-insurer to show cause why the department should not have the relief prayed for. The Florida Self-Insurers Guaranty Association, Incorporated, may petition the department to commence such proceedings, and upon receipt of such petition, the department shall commence such proceeding. On the return of such order to show cause, and after a full hearing, the court shall either deny the application or grant the application, together with such other relief as the nature of the case and the interests of the claimants, creditors, stockholders, members, subscribers, or public may require. The Florida Self-Insurers Guaranty Association, Incorporated, shall be given reasonable written notice by the department of all hearings which pertain to an adjudication of insolvency of a member individual self-insurer.

(3) GROUNDS FOR LIQUIDATION.—The department may apply to the court for an order appointing a receiver and directing the receiver to liquidate the business of a domestic individual self-insurer if such individual self-insurer is insolvent. The Florida Self-Insurers Guaranty Association, Incorporated, may petition the department to apply to the court for such order. Upon receipt of such petition, the department shall apply to the court for such order.

(4) GROUNDS FOR CONSERVATION; FOREIGN INDIVIDUAL SELF-INSURERS.—

(a) The department may apply to the court for an order appointing a receiver or ancillary receiver, and directing the receiver to conserve the assets within this state, of a foreign individual self-insurer if such individual self-insurer is insolvent. The Florida Self-Insurers Guaranty Association, Incorporated, may petition the department to apply for such order, and, upon receipt of such petition, the department shall apply to the court for such order.

(b) An order to conserve the assets of an individual self-insurer shall require the receiver forthwith to take possession of the property of the receiver within the state and to conserve it, subject to the further direction of the court.

(5) PROCEDURE IN LIQUIDATION OF INDIVIDUAL SELF-INSURER BY COURT.—

(a) In proceedings to liquidate the assets and business of an individual self-insurer, the court shall have power:

1. To issue injunctions.

2. To appoint a receiver or receivers pendente lite with such powers and duties as the court, from time to time, may direct.

3. To take such other proceedings as may be requisite to preserve the individual self-insurer assets, wherever situated, and carry on the business of the individual self-insurer until a full hearing can be held.

(b) After a hearing had upon such notice as the court may direct to be given to all parties to the proceedings and to any other parties in interest designated by the court, the court may appoint a liquidating receiver or receivers with authority to collect the assets of the individual self-insurer. Such liquidating receiver or receivers shall have authority, subject to the order of the court, to sell, convey, and dispose of all or any part of the assets of the individual self-insurer, wherever situated, either at public or private sale. The assets of the individual self-insurer or the proceeds resulting from a sale, conveyance, or other disposition thereof shall be applied to the expenses of such liquidation and to the payment of the liabilities and obligations of the individual self-insurer, and any remaining assets or proceeds shall be distributed among its owners or shareholders according to their respective rights and interests. The order appointing such liquidating receiver or receivers shall state their powers and duties. Such powers and duties may be increased or diminished at any time during the proceedings.

(c) The court shall have power to allow, from time to time, as expenses of the liquidation, compensation to the receiver or receivers and to the receiver's attorneys in the proceeding and to direct the payment thereof out of the assets of the individual self-insurer or the proceeds of any sale or disposition of such assets.

(d) A receiver of an individual self-insurer appointed under the provisions of this section shall have authority to sue and defend in all courts in his own name as receiver of such individual self-insurer. The court appointing such receiver shall have exclusive jurisdiction of the individual self-insurer and its property, wherever situated.

(e) The circuit court shall have jurisdiction to appoint an ancillary receiver for the assets and business of such individual self-insurer, to serve ancillary to the receiver for the assets and business of the individual self-insurer acting under orders of a court having jurisdiction to appoint such a receiver for the individual self-insurer, located in any other state, whenever circumstances exist deemed by the court to require the appointment of such ancillary receiver. Moreover, such court, whenever circumstances exist deemed by it to require the appointment of a receiver for all the assets in and out of this state, and the business, of a foreign individual self-insurer doing business in this state, in accordance with the ordinary usages of equity, may appoint such a receiver for all its assets in and out of this state, and its business, even though no receiver has been appointed elsewhere. Such receivership shall be converted into an ancillary receivership when deemed appropriate by such circuit court in the light of orders entered by a court of competent jurisdiction in some other state, providing for a receivership of all assets and business of such individual self-insurer.

(6) QUALIFICATIONS OF RECEIVERS.—A receiver shall in all cases be a natural person or a corporation authorized to act as receiver, which corporation may be a domestic corporation or a foreign corporation authorized to transact business in this state, and shall in all cases give such bond as the court may direct, with such sureties as the court may require.

(7) FILING OF CLAIMS IN LIQUIDATION PROCEEDINGS.—In proceedings to liquidate the assets and business of an individual self-insurer, the court may require all creditors of the individual self-insurer to file with the clerk of the court or with the receiver, in such form as the court may prescribe, proofs under oath of their respective claims. If the court requires the filing of claims, it shall fix a date, which shall be not less than 4 months from the date of the offer, as the last day for filing of claims, and shall prescribe the notice of the date so fixed that shall be given to creditors and claimants. Prior to the date so fixed, the court may extend the time for the filing of claims. Creditors and claimants failing to file proofs of claim on or before the date so fixed may be barred, by order

of court, from participating in the distribution of the assets of the individual self-insurer. Nothing in this section affects the enforceability of any recorded mortgage or lien or the perfected security interest or rights of a person in possession of real or personal property.

(8) DISCONTINUANCE OF DELINQUENCY PROCEEDINGS.—The liquidation of the assets and business or other delinquency proceedings of an individual self-insurer may be discontinued at any time during the proceedings when it is established that cause for the delinquency proceeding no longer exists. In such event, the court shall dismiss the proceedings and direct the receiver to redeliver to the individual self-insurer all its remaining property and assets.

(9) VOIDABLE TRANSFERS.—

(a) Any transfer of, or lien upon, the property of an individual self-insurer which is made or created within 4 months prior to the granting of an order to show cause under this section with the intent of giving to any creditor a preference or of enabling him to obtain a greater percentage of his debt than any other creditor of the same class, and which is accepted by such creditor having reasonable cause to believe that such preference will occur, shall be voidable.

(b) Every director, officer, employee, stockholder, member, subscriber, and any other person acting on behalf of such individual self-insurer who shall be concerned in any such act or deed and every person receiving thereby any property of such individual self-insurer or the benefit thereof shall be personally liable therefor and shall be bound to account to the court.

(c) The receiver in any proceeding under this section may avoid any transfer of or lien upon the property of an individual self-insurer which any creditor, stockholder, or subscriber of such individual self-insurer might have avoided and may recover the property so transferred unless such person was a bona fide holder for value prior to the date of the entering of an order to show cause under this chapter. Such property or its value may be recovered from anyone who has received it except a bona fide holder for value as herein specified.

(10) TRANSFERS PRIOR TO PETITION.—

(a) Every transfer made or suffered and every obligation incurred by an individual self-insurer within 1 year prior to the filing of a successful petition in any delinquency proceeding under this section, upon a showing by the receiver that the same was incurred without fair consideration, or with actual intent to hinder, delay, or defraud either then existing or future creditors, shall be fraudulent and voidable. However, every such transfer or obligation incurred or suffered within 6 months prior to the filing of the petition shall be presumed void and fraudulent, with the burden of proof upon the obligee or transferee to show otherwise. This paragraph shall not apply to a person who in good faith is a purchaser, lienor, or obligee, for a present fair equivalent value, but any purchaser, lienor, or obligee who in good faith has given a valuable consideration less than fair for such transfer, lien, or obligation may retain the property, lien, or obligation as a security for repayment. The court may, on due notice, order any such transfer or obligation to be preserved for the benefit of the estate, and in that event the receiver shall succeed to and may enforce the rights of the purchaser, lienor, or obligee.

(b) Transfers shall be deemed to have been made or suffered, or obligations incurred, when perfected according to the following criteria:

1. A transfer of property other than real property shall be deemed to be made or suffered when it becomes so far perfected that no subsequent lien obtainable by legal or equitable proceedings on a simple contract could become superior to the rights of the transferee.

2. A transfer of real property shall be deemed to be made or suffered when it becomes so far perfected that no subsequent bona fide purchaser from the individual self-insurer could obtain rights superior to the rights of the transferee.

3. A transfer which creates an equitable lien shall not be deemed to be perfected if there are available means by which a legal lien could be created.

4. Any transfer not perfected prior to the filing of a petition in a delinquency proceeding shall be deemed to be made immediately before the filing of a successful petition.

Subparagraphs 1.-4. apply whether or not there are or were creditors who might have obtained any liens or persons who might have become bona fide purchasers.

(c) The transferor or obligor individual self-insurer shall record and preserve adequate official memoranda by corporate minutes which shall fully show all transactions involving transfers as contemplated by this section of real property or securities of any type and, in the case of all other property or assets, any transfer out of the individual self-insurer's ordinary course of business. Any person, firm, or corporation, or any officer, director, or employee thereof, who violates this paragraph is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than $5,000. Each instance of such violation shall be considered a separate offense.

(d) The personal liability of the officers or directors of an insolvent individual self-insurer shall be subject to the provisions of chapter 607 and the penalties provided therein.

(e) Every transaction of the individual self-insurer with a reinsurer or an excess insurer within 1 year prior to the filing of the petition shall be voidable upon a showing that such transaction was made without fair consideration or with intent to hinder, delay, or defraud either then existing or future creditors notwithstanding the provisions of subsection (1).

(11) TRANSFERS AFTER PETITION.—

(a) After the original petition is filed in any delinquency proceeding, a transfer of any of the real property of the individual self-insurer made to a person acting in good faith shall be valid against the receiver if made for a present fair equivalent value, or, if not made for a present fair equivalent value, then to the extent of the present consideration actually paid therefor, for which amount the transferee shall have a lien on the property so transferred. The recording of a copy of the petition for, or order in, any delinquency proceeding with the clerk of the circuit court in the county where any real property in question is located is constructive notice of the commencement of a delinquency proceeding. The exercise by a court of the United States or any state having jurisdiction to authorize or effect a judicial sale of real property of the individual self-insurer within any county in any state shall not be impaired by the pendency of such a proceeding unless the copy is recorded in the county prior to the consummation of the judicial sale.

(b) After the original petition for a delinquency proceeding has been filed and before an order of conservation or liquidation is granted:

1. A transfer of any of the property of the individual self-insurer, other than real property, made to a person acting in good faith shall be valid against the receiver if made for a present fair equivalent value, or, if not made for a present fair equivalent value, then to the extent of the present consideration actually paid therefor, for which amount the transferee shall have a lien on the property so transferred.

2. A person indebted to the individual self-insurer or holding property of the individual self-insurer may, if acting in good faith, pay the indebtedness or deliver the property or any part thereof to the individual self-insurer or upon his order, with the same effect as if the petition were not pending.

(c) A person having actual knowledge of the pending delinquency proceeding shall be deemed not to act in good faith.

(d) A person asserting the validity of a transfer under this subsection has the burden of proof. Except as elsewhere provided in this subsection, any transfer by or in behalf of the individual self-insurer after the date of filing of the original petition in any delinquency proceeding requesting the appointment of a receiver by any person other than the receiver is not valid against the receiver.

(e) Nothing in this section shall impair the negotiability of currency or negotiable instruments.

(12) JUDGMENT OF INVOLUNTARY DISSOLUTION; ENTRY; FILING.—

(a) In proceedings to liquidate the assets and business of an individual self-insurer which is a corporation, when the costs and expenses of such proceedings and all debts, obligations, and liabilities of the corporation have been paid and discharged and all of its remaining property and assets distributed to its shareholders or, in case its property and assets are not sufficient to satisfy and discharge such costs, expenses, debts, and obligations, all the property and assets have been applied so far as they

will go to their payment, the court shall enter a judgment dissolving the corporation, whereupon the existence of the corporation shall cease.

(b) If the court enters a judgment dissolving a corporation, it shall be the duty of the clerk of such court to cause a certified copy of the judgment to be filed with the Department of State. No fee shall be charged by the Department of State for the filing thereof.

(13) GUARANTY FUND; ORDERS OF COURT.--Any delinquency order issued pursuant to this section shall authorize and direct the receiver to coordinate the operation of the receivership with the operation of the Florida Self-Insurers Guaranty Association, Incorporated. Such authorization shall include, but not be limited to, release of copies of any of the following:

(a) Workers' compensation claims files, records, or documents pertaining to workers' compensation claims on file with the insolvent individual self-insurer.

(b) Workers' compensation claims filed with the receiver.

Section 26. Paragraph (a) of subsection (3) of section 440.39, Florida Statutes, is amended to read:

440.39 Compensation for injuries when third persons are liable.—

(3)(a) In all claims or actions at law against a third-party tortfeasor, the employee, or his dependents or those entitled by law to sue in the event he is deceased, shall sue for the employee individually and for the use and benefit of the employer, if a self-insurer, or employer's insurance carrier, in the event compensation benefits are claimed or paid; and such suit may be brought in the name of the employee, or his dependents or those entitled by law to sue in the event he is deceased, as plaintiff or, at the option of such plaintiff, may be brought in the name of such plaintiff and for the use and benefit of the employer or insurance carrier, as the case may be. Upon suit being filed, the employer or the insurance carrier, as the case may be, may file in the suit a notice of payment of compensation and medical benefits to the employee or his dependents, which notice shall constitute a lien upon any judgment or settlement recovered to the extent that the court may determine to be their pro rata share for compensation and medical benefits paid or to be paid under the provisions of this law, less their pro rata share of all court costs expended by the plaintiff in the prosecution of the suit including reasonable attorney's fees for the plaintiff's attorney. In determining the employer's or carrier's pro rata share of those costs and attorney's fees, the employer or carrier shall have deducted from its recovery a percentage amount equal to the percentage of the judgment or settlement which is for costs and attorney's fees. Subject to this deduction, the employer or carrier shall recover from the judgment or settlement, after costs and attorney's fees incurred by the employee or dependent in that suit have been deducted, 100 percent of what it has paid and future benefits to be paid, except, if the employee or dependent can demonstrate to the court that he did not recover the full value of damages sustained, the employer or carrier shall recover from the judgment or settlement, after costs and attorney's fees incurred by the employee or dependent in that suit have been deducted, a percentage of what it has paid and future benefits to be paid equal to the percentage that the employee's net recovery is of the full value of the employee's damages; provided, the failure by the employer or carrier to comply with the duty to cooperate imposed by subsection (7) may be taken into account by the trial court in determining the amount of the employer's or carrier's recovery, and such recovery may be reduced, as the court deems equitable and appropriate under the circumstances, including as a mitigating factor whether a claim or potential claim against a third party is likely to impose liability upon the party whose cooperation is sought, if it finds such a failure has occurred. The burden of proof will be upon the employee. The determination of the amount of the employer's or carrier's recovery shall be made by the judge of the trial court upon application therefor and notice to the adverse party. Notice of suit being filed shall be served upon the employer and compensation carrier and upon all parties to the suit or their attorneys of record by the employee. Notice of payment of compensation benefits shall be served upon the employee and upon all parties to the suit or their attorneys of record by the employer and compensation carrier. *However, if a migrant worker prevails under a private cause of action under the Migrant and Seasonal Agricultural Worker Protective Act, 96 Stat. 2583, as amended, 29 U.S.C. s. 1801 et seq. (1962 ed. and Supp. V), any recovery under this act shall be offset 100 percent against any recovery under that act.*

Section 27. Section 440.43, Florida Statutes, is amended to read:

440.43 Penalty for failure to secure payment of compensation.—Any employer required to secure the payment of compensation under this chapter who fails to secure such compensation *is* ~~shall be~~ guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083 and upon a complaint of the division being filed in the circuit court of the county in which said employer may be doing business, such employer may be enjoined from employing individuals and from conducting business until such payment for compensation has been secured. However, the employer, upon written notice from the division, shall *show evidence that such compensation was secured for all employees at the time of receipt of such written notice* ~~have 72 hours to secure such compensation prior to the filing of the complaint by the division~~. *If such employer fails to show evidence that workers' compensation insurance was secured for all employees at the time of receipt of such written notice, the division shall assess a penalty of $500, and if coverage is not secured within 96 hours, an additional $100 shall be assessed for each day that such employer fails to comply. Such fines must be deposited in the Workers' Compensation Administration Trust Fund. Any contractor found not to have secured coverage shall be reported by the division to the appropriate state licensing board for disciplinary action.* This section shall not affect any other liability of the employer under this chapter.

Section 28. Subsection (10) of section 440.44, Florida Statutes, is hereby repealed.

Section 29. Subsections (1) and (2) of section 440.45, Florida Statutes, are amended to read:

440.45 Judges of compensation claims; Chief Judge.—

(1) The Governor shall appoint as many full-time judges of compensation claims *to the workers' compensation trial courts* as may be necessary to effectually perform the duties prescribed for them under this chapter. The Governor shall initially appoint a judge of compensation claims from a list of at least three persons nominated by *a statewide nominating commission* ~~the appellate district judicial nominating commission for the appellate district in which the judge of compensation claims will principally conduct hearings~~. *The statewide nominating commission shall be made up of one person from the judge of compensation claims' district and appointed by the Governor.* The meetings and determinations of the ~~judicial~~ nominating commission as to the judges of compensation claims shall be open to the general public. No person shall be nominated or appointed as a full-time judge of compensation claims who has not had *15* 3 years' experience in the practice of law in this state; and no judge of compensation claims shall engage in the private practice of law during a term of office. The Governor may appoint any former judge of compensation claims to serve as a judge of compensation claims pro hac vice to complete the proceedings on any claim with respect to which the judge of compensation claims had heard testimony and which remained pending at the time of the expiration of the judge of compensation claims' term of office. However, no former judge of compensation claims shall be appointed to serve as a judge of compensation claims pro hac vice for a period to exceed 60 successive days.

(2) Each full-time judge of compensation claims shall be appointed for a term of 4 years, but during the term of office may be removed by the Governor for cause. Prior to the expiration of the term of office of the judge of compensation claims, the conduct of such judge of compensation claims shall be reviewed by the *statewide* ~~appellate district judicial~~ nominating commission in the appellate district in which the judge of compensation claims principally conducts hearings, which commission shall determine whether such judge of compensation claims shall be retained in office. *Evaluation forms to be considered by the commission shall be prepared by the Chief Judge which shall be completed anonymously by each attorney within 30 days after the date of any hearing that he has participated in and shall be forwarded to the statewide nominating commission. Included in the evaluation shall be questions relating to timeliness of decisions; diligence, availability, and punctuality; neutrality and objectivity regarding legal issues; knowledge and application of law; courtesy toward litigants, witnesses, and lawyers; judicial demeanor; willingness to ignore irrelevant considerations such as race, sex, religion, politics, and identity of lawyers or parties.* A report of the decision shall be furnished to the Governor no later than 6 months prior to the expiration of the term of the judge of compensation claims. If the ~~judicial~~ nominating commission votes not to retain the judge of compensation claims, the judge of compensation claims shall not be reappointed

but shall remain in office until a successor is appointed and qualified. If the ~~judicial~~ nominating commission votes to retain the judge of compensation claims in office, then the Governor shall reappoint the judge of compensation claims for a term of 4 years. Judges of compensation claims shall be subject to the jurisdiction of the Judicial Qualifications Commission.

Section 30. Section 440.49, Florida Statutes, is amended to read:

440.49 Rehabilitation of injured employees; Special Disability Trust Fund.—

(1) REHABILITATION OF INJURED EMPLOYEES.—

(a) When an employee has suffered an injury covered by this chapter and it appears that the injury will preclude the employee from earning wages equal to wages earned prior to the injury, the employee shall be entitled to appropriate training and education. Upon request by the employee, ~~or~~ the employer, *or the carrier,* the division shall provide such injured employee with appropriate training and education for suitable gainful employment and may cooperate with federal and state agencies for training and education and with any public or private agency cooperating with such federal and state agencies in the training and education of such injured employees. Within 10 days of the request, the division shall respond by assigning a public or private evaluator to conduct an evaluation to determine if training and education are appropriate, unless the injured employee and the employer/carrier have agreed upon an evaluator to conduct the evaluation and included the evaluator's name in the request. Within 30 days of the assignment, the evaluator shall submit the results of the evaluation to the division, employer, and employee. Any contracts entered into for this purpose shall be exempt from the competitive bidding requirements of chapter 287. The division shall establish a blind rotation system for the selection of the evaluators in the appropriate geographic area, except in the community college districts served by Miami-Dade Community College, Florida Community College at Jacksonville, and Indian River Community College. Until October 1, 1991, 50 percent of the evaluations in those districts shall be assigned to the community college in the district and the other 50 percent to other evaluators in the district who are selected by a blind rotation system. Thereafter, the method of selecting the evaluator shall be consistent statewide. Based on the results of the evaluation, the division is authorized to expend moneys from the Workers' Compensation Administration Trust Fund established by s. 440.50, for the purpose of assisting such injured employees to obtain appropriate training and education, if necessary. Such expenditures shall only be made in accordance with rules promulgated by the division establishing standards for eligibility and types, duration, and direct cost of training and educational programs to be made available. All hearings arising under this subsection shall be conducted by a judge of compensation claims pursuant to s. 440.25. However, no judge of compensation claims shall assume jurisdiction to approve or disapprove training and education under this provision until the division has advised all parties as to the training and education program it may propose if such training and education program is to be funded out of the fund established by s. 440.50. The division shall be a party to all hearings involving any claims made against the fund established by s. 440.50. For purposes of this section only, "suitable gainful employment" means employment or self-employment which is reasonably attainable in light of the individual's age, education, previous occupation, and injury and which offers an opportunity to restore the individual as soon as practicable and as nearly as possible to his average weekly earnings at the time of injury. ~~If any voluntary vocational rehabilitation services or training and education services are voluntarily provided to the employee by the employer or carrier, those services shall be reported to the division within such time as the division may prescribe by rule, so that the division may perform utilization review of such services. Neither the employer, carrier, or injured employee is required to furnish or accept voluntary vocational rehabilitation services. As used in this subsection, the term "voluntary vocational rehabilitation services" means services helpful to restore injured employees to suitable gainful employment. Voluntary vocational rehabilitation within the Workers' Compensation Act includes two major interrelated types of services, medical care coordination and vocational services coordination. "Medical care coordination" includes, but is not limited to, coordinating physician and mental restoration services, such as medical, psychiatric, or therapeutic treatment for the injured employee, providing health teaching to the employee and family, and monitoring the employee's recovery process to maximize recovery, minimize the disability, and prevent complications. The purpose of medical care coordination is to minimize the recovery period without jeopardizing medical stability, to assure that proper medical treatment and other restorative services are received in a timely and sequential manner, so as to assist in the containment of medical costs. "Vocational services coordination" includes, but is not limited to, vocational services needed by the injured employee to secure suitable gainful employment. Such services include counseling for adjustment to disability, vocational counseling, vocational and functional capacity assessments, job seeking skills training, self employment assistance, and selective job placement, arranging other services such as education or training (vocational and on-the job) which may be needed by the employee, and monitoring the employee's progress toward attainment of the identified vocational goal. For the purpose of this subsection, "selective job placement" means a process by which a provider directly assists the injured employee in securing suitable employment by matching the needs and abilities of the injured employee with the requirements and demands of specific jobs. These voluntary services shall be considered loss adjustment expenses of the employer or carrier and not benefits to the employee, including, but not limited to, the purposes of ratemaking.~~

(b)1. The Division of Workers' Compensation shall continuously study the issue of education and training and rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all qualified rehabilitation facilities and agencies, both public and private. The division shall establish by rule the minimum qualifications, standards, and requirements which must be met in order to be listed in the directory of qualified training and education and rehabilitation service providers, facilities, and agencies. Such minimum qualifications, standards, and requirements shall be based on those generally accepted within the various specific fields for which the provider, facility, or agency is to be approved. A biennial application fee of $25 shall be charged for a listing in the directory, and all such fees shall be deposited in the Workers' Compensation Administration Trust Fund. The division has the authority to monitor and evaluate qualified training and education or rehabilitation service providers, facilities, and agencies to ensure their continued compliance with the minimum qualifications, standards, and requirements established pursuant to this subparagraph. The failure of a training and education or rehabilitation service provider, facility, or agency to provide the division with information requested or access necessary for it to carry out this monitoring and evaluation function shall be grounds for removing the provider, facility, or agency from the directory.

2. A training and education or rehabilitation service provider, facility, or agency shall prepare an individualized written rehabilitation plan on all compensable workers' compensation cases which require three or more counseling sessions, vocational evaluations, training, work evaluations, or placement. Prior to implementing any plan, the plan shall be signed by the carrier or employer, if self-insured, *and the employee* as verification of acceptance of the plan. The plan shall be filed electronically with the division and copies furnished to all interested parties. Progress reports shall be filed electronically every 30 days with the division and within 30 days of the completion of the plan. Funding for electronic reporting equipment for the division shall be from the Workers' Compensation Administration Trust Fund established by s. 440.50.

3. A training and education or rehabilitation service provider, facility, or agency may not be authorized by any employer, carrier, or the division to provide any training and education or rehabilitation services in this state to an injured worker unless such provider, facility, or agency is listed or has been approved for listing in the directory as being qualified to provide the specific service to be authorized. However, Miami-Dade Community College, Florida Community College at Jacksonville, and Indian River Community College shall be authorized to conduct evaluations of injured employees until October 1, 1991, regardless of whether or not they are listed in the directory. Thereafter, they will have to be listed in the directory to be an authorized provider. This paragraph does not apply to training and education or rehabilitation services provided outside this state and does not apply to the services of a training and education or rehabilitation service provider, facility, or agency unless such provider, facility, or agency is included in the definition of same contained in subparagraph 4. Job placement services provided by private employment agencies under this subsection are exempt from this subparagraph if those services are limited to job placement.

4. As used in this paragraph, the term:

a. "Private employment agency" means any person, firm, or corporation which, for hire or for profit, undertakes to secure employment or help, or through the medium of a card, circular, pamphlet, or other medium whatsoever, or through the display of a sign or bulletin, or by

any other holding out to the public, offers to secure employment or help or give information as to where employment or help may be secured.

b. "Qualified training and education or rehabilitation service providers, facilities, and agencies" means training and education or rehabilitation service providers, facilities, and agencies which are listed in the division directory of qualified training and education or rehabilitation service providers, facilities, and agencies.

c. "Training and education or rehabilitation service providers, facilities, and agencies" means nurses licensed pursuant to chapter 464, vocational rehabilitation counselors, and public and private agencies, companies, and corporations which provide to injured workers, pursuant to this section, training and educational or vocational rehabilitation services including vocational retraining, testing, counseling, evaluation, and job placement services. The term includes self-insured employers or carriers, their employees or wholly owned subsidiaries when they provide such services wholly in-house to the injured workers of the self-insured employer or carrier's insureds. Such in-house services shall be subject to s. 440.20(16). The term does not include the Department of Labor and Employment Security or the Department of Health and Rehabilitative Services or the employees of either department. The term does not include physicians licensed under chapter 458, osteopaths licensed under chapter 459, chiropractors licensed under chapter 460, podiatrists licensed under chapter 461, psychologists licensed under chapter 490, or hospitals.

(c) Prior to entering an order adjudicating an injured employee to be permanently and totally disabled, the judge of compensation claims shall first determine whether there is a reasonable probability that, with appropriate training or education, the injured employee may be rehabilitated to the extent that such employee can achieve suitable gainful employment and whether it is in the best interest of such individual to undertake such training or education.

(d) When it appears that training and education are necessary and desirable to restore the injured employee to suitable gainful employment, the employee shall be entitled to be paid by the employer additional compensation for temporary total disability during such period as the employee may be receiving training and education under a program pursuant to this section for a period not to exceed 26 weeks, which period may be extended for an additional period not to exceed 26 additional weeks, if such extended period is determined to be necessary and proper by the judge of compensation claims. However, no carrier or employer shall be precluded from continuing such additional temporary total disability compensation beyond such period voluntarily. If *training and education require* ~~rehabilitation requires~~ residence at or near a facility or an institution and away from the employee's customary residence, the reasonable cost of board, lodging, or travel shall be borne by the division from the Workers' Compensation Administration Trust Fund established by s. 440.50. Refusal to accept training and education as deemed necessary by the judge of compensation claims shall result in a 50 percent reduction in weekly compensation, including wage-loss benefits as determined pursuant to s. 440.15(3)(b), for each week of the period of refusal.

(e) The division, after consultation with representatives of employees, employers, carriers, training and education service providers, and rehabilitation providers, shall adopt rules governing practices and standards for training and education and rehabilitation service providers which reflect the generally accepted standards for such providers.

(2) LIMITATION OF LIABILITY FOR SUBSEQUENT INJURY THROUGH SPECIAL DISABILITY TRUST FUND.—

(a) Legislative intent.—It is the purpose of this subsection to encourage the employment of the physically handicapped by protecting employers from excess liability for compensation and medical expense when an injury to a handicapped worker merges with his preexisting permanent physical impairment to cause a greater disability, permanent impairment, or wage loss than would have resulted from the injury alone. The division shall inform all employers of the existence and function of the fund and shall interpret eligibility requirements liberally. However, this subsection shall not be construed to create or provide any benefits for injured employees or their dependents not otherwise provided by this chapter. The entitlement of an injured employee or his dependents to compensation under this chapter shall be determined without regard to this subsection, the provisions of which shall be considered only in determining whether an employer or carrier who has paid compensation under this chapter is entitled to reimbursement from the Special Disability Trust Fund.

(b) Definitions.—As used in this subsection:

1. "Permanent physical impairment" means any permanent condition due to previous accident or disease or any congenital condition which is, or is likely to be, a hindrance or obstacle to employment, but not due to the natural aging process.

2. "Merger" describes or means that:

a. Had the permanent physical impairment not existed, the subsequent accident or occupational disease would not have occurred;

b. The permanent disability, permanent impairment, or wage loss resulting from the subsequent accident or occupational disease is materially and substantially greater than that which would have resulted had the permanent physical impairment not existed and the employer has been required to pay, and has paid, permanent total disability, permanent impairment, or wage-loss benefits for that materially and substantially greater disability; or

c. Death would not have been accelerated had the permanent physical impairment not existed.

3. "Excess permanent compensation" means that compensation for permanent impairment, wage-loss benefits, or permanent total disability or death benefits for which the employer or carrier is otherwise entitled to reimbursement from the Special Disability Trust Fund.

(c) Permanent impairment, wage loss, or permanent total disability after other physical impairment.—

1. Permanent impairment.—If an employee who has a preexisting permanent physical impairment incurs a subsequent permanent impairment from injury or occupational disease arising out of, and in the course of, his employment which merges with the preexisting permanent physical impairment to cause a permanent impairment, the employer shall, in the first instance, pay all benefits provided by this chapter; but, subject to the limitations specified in paragraph (f), such employer shall be reimbursed from the Special Disability Trust Fund created by paragraph (h) for 60 percent of all impairment benefits which the employer has been required to provide pursuant to s. 440.15(3)(a) as a result of the subsequent accident or occupational disease.

2. Wage loss.—If an employee who has a preexisting permanent physical impairment incurs a subsequent permanent impairment from injury or occupational disease arising out of, and in the course of, his employment which merges with the preexisting permanent physical impairment to cause a wage loss, the employer shall, in the first instance, pay all benefits provided by this chapter; but, subject to the limitations specified in paragraph (f), such employer shall be reimbursed from the Special Disability Trust Fund created by paragraph (h) for 60 percent of all compensation for wage loss which the employer has been required to provide pursuant to s. 440.15(3)(b) during the first 5 years after the date of maximum medical improvement and for 75 percent of all compensation for wage loss which the employer has been required to provide after the 5-year period following the date of maximum medical improvement.

3. Permanent total disability.—If an employee who has a preexisting permanent physical impairment incurs a subsequent permanent impairment from injury or occupational disease arising out of, and in the course of, his employment which merges with the preexisting permanent physical impairment to cause permanent total disability, the employer shall, in the first instance, pay all benefits provided by this chapter; but, subject to the limitations specified in paragraph (f), such employer shall be reimbursed from the Special Disability Trust Fund created by paragraph (h) for all compensation for permanent total disability which is in excess of the first 175 weeks of permanent total disability compensation. Upon a determination that a merger has caused permanent total disability, the employer shall be immediately reimbursed from the Special Disability Trust Fund for all excess compensation paid for temporary disability and remedial treatment subject to the limitations of paragraphs (e) and (f).

(d) When death results.—If death results from the subsequent permanent impairment contemplated in paragraph (c) within 1 year after the subsequent injury, or within 5 years after the subsequent injury when disability has been continuous since the subsequent injury, and it is determined that the death resulted from a merger, the employer shall, in the first instance, pay the funeral expenses and the death benefits prescribed by this chapter; but, subject to the limitations specified in paragraph (f), he shall be reimbursed from the Special Disability Trust Fund created by this subsection for the last 75 percent of all compensation allowable and paid for such death and for 75 percent of the amount paid as funeral expenses.

(e) Reimbursement for compensation paid for temporary disability or medical benefits.—Subject to the limitations specified in paragraph (f), and when the preexisting permanent physical impairment has contributed to the need, either medically or circumstantially, for temporary disability and remedial treatment, care, and attendance, an employer entitled to reimbursement from the Special Disability Trust Fund for compensation paid for permanent impairment, wage loss, permanent total disability, or death shall be reimbursed from such fund for 50 percent of the first $10,000 paid as compensation for temporary disability and remedial treatment, care, and attendance pursuant to s. 440.13, for the same injury; thereafter, the employer shall be reimbursed from such fund for all sums paid by the employer as compensation for temporary disability and remedial treatment, care, and attendance pursuant to s. 440.13 which are in excess of $10,000.

(f) Reimbursement limitations.—

1. No reimbursement shall be allowed under this subsection unless it is established that the employer reached an informed conclusion prior to the occurrence of the subsequent injury or occupational disease that the preexisting physical condition is permanent and is, or is likely to be, a hindrance or obstacle to employment. However, when the employer establishes that he knew of the preexisting permanent physical impairment prior to the subsequent accident or occupational disease, *or the employer has reemployed an employee who subsequently suffers an injury that results in a permanent physical impairment and the records of the employer establish that the employee had a preexisting permanent physical impairment and such records were in the employer's possession prior to the subsequent accident,* there shall be a conclusive presumption that the employer considered the condition to be permanent and to be, or likely to be, a hindrance or obstacle to employment, when the condition is one of the following:

a. Epilepsy.

b. Diabetes.

c. Cardiac disease.

d. Marie-Strumpell disease.

e. Amputation of foot, leg, arm, or hand.

f. Total loss of sight of one or both eyes or a partial loss of corrected vision of more than 75 percent bilaterally.

g. Residual disability from poliomyelitis.

h. Cerebral palsy.

i. Multiple sclerosis.

j. Parkinson's disease.

k. Vascular disorder.

l. Psychoneurotic disability following confinement for treatment in a recognized medical or mental institution for a period in excess of 6 months.

m. Hemophilia.

n. Chronic osteomyelitis.

o. Ankylosis of a major weight-bearing joint.

p. Hyperinsulinism.

q. Muscular dystrophy.

r. Thrombophlebitis.

s. Herniated intervertebral disk.

t. Surgical removal of an intervertebral disk or spinal fusion.

u. Total deafness.

v. Mental retardation, provided the employee's intelligence quotient is such that he falls within the lowest 2 percentile of the general population. However, it shall not be necessary for the employer to know the employee's actual intelligence quotient or actual relative ranking in relation to the intelligence quotient of the general population.

w. Any permanent physical condition which, prior to the industrial accident or occupational disease, constitutes a 20-percent impairment of a member or of the body as a whole.

x. Obesity.

2. The Special Disability Trust Fund shall not be liable for any costs, interest, penalties, or attorneys' fees.

3. An employer's or carrier's right to apportionment or deduction pursuant to ss. 440.02(1), 440.15(5)(b), and 440.151(1)(c) shall not preclude reimbursement from such fund, except when the merger comes within the definition of sub-subparagraph (b)2.b. and such apportionment or deduction relieves the employer or carrier from providing the materially and substantially greater permanent disability benefits otherwise contemplated in said paragraphs.

4. For purposes of this subsection only, the costs for rehabilitation required to be provided by subsection (1) shall be considered remedial attendance and shall be reimbursed in accordance with the formula contained in paragraph (e) if it has been determined that a merger has occurred which entitles the employer or carrier to reimbursement for excess permanent compensation.

(g) Reimbursement of employer.—*Except for reimbursement claimed pursuant to paragraph (k),* the right to reimbursement as provided in this subsection shall be barred unless written notice of claim of the right to such reimbursement is filed by the employer or carrier entitled to such reimbursement with the division at Tallahassee within 2 years after the date the employee last reached maximum medical improvement, or within 2 years after the date of the first payment of compensation for permanent total disability, wage loss, or death, whichever is later. The notice of claim shall contain such information as the division by rule may require; and the employer or carrier claiming reimbursement shall furnish such evidence in support of the claim as the division reasonably may require. For notice of claims on the Special Disability Trust Fund filed on or after July 1, 1978, the Special Disability Trust Fund shall, within 120 days of receipt of notice that a carrier has paid, been required to pay, or accepted liability for excess compensation, serve notice of the acceptance of the claim for reimbursement. Failure of the Special Disability Trust Fund to serve the notice shall be deemed a denial by the Special Disability Trust Fund of the claim for reimbursement. If the Special Disability Trust Fund through its representative denies or controverts the claim, the right to such reimbursement shall be barred unless an application for a hearing thereon is filed with the division at Tallahassee within 60 days after notice to the employer or carrier of such denial or controversion. When such application for a hearing is timely filed, the claim shall be heard and determined in accordance with the procedure prescribed in s. 440.25, to the extent that such procedure is applicable, and in accordance with the workers' compensation rules of procedure. In such proceeding on a claim for reimbursement, the Special Disability Trust Fund shall be made the party respondent, and no findings of fact made with respect to the claim of the injured employee or the dependents for compensation, including any finding made or order entered pursuant to s. 440.20(12), shall be res judicata. The Special Disability Trust Fund may not be joined or made a party to any controversy or dispute between an employee and the dependents and the employer or between two or more employers or carriers without the written consent of the fund. When it has been determined that an employer or carrier is entitled to reimbursement in any amount, the employer or carrier shall be reimbursed periodically every 6 months from the Special Disability Trust Fund for the compensation and medical benefits paid by the employer or carrier for which the employer or carrier is entitled to reimbursement, upon filing request therefor and submitting evidence of such payment in accordance with rules prescribed by the division.

(h) Special Disability Trust Fund.—

1. There is established in the State Treasury a special fund to be known as the "Special Disability Trust Fund," which shall be available only for the purposes stated in this subsection; and the assets thereof may not at any time be appropriated or diverted to any other use or purpose. The Treasurer shall be the custodian of such fund, and all moneys and securities in such fund shall be held in trust by such Treasurer and shall not be the money or property of the state. The Treasurer is authorized to disburse moneys from such fund only when approved by the division and upon the order of the Comptroller. The Treasurer shall deposit any moneys paid into such fund into such depository banks as the division may designate and is authorized to invest any portion of the fund which,

in the opinion of the division, is not needed for current requirements, in the same manner and subject to all the provisions of the law with respect to the deposits of state funds by such Treasurer. All interest earned by such portion of the fund as may be invested by the Treasurer shall be collected by him and placed to the credit of such fund.

2. The Special Disability Trust Fund shall be maintained by annual assessments upon the insurance companies writing compensation insurance in the state and the self-insurers under this chapter, which assessments shall become due and be paid quarterly at the same time and in addition to the assessments provided in s. 440.51. The division shall estimate annually in advance the amount necessary for the administration of this subsection and the maintenance of this fund and shall make such assessment in the manner hereinafter provided. The annual assessment shall be calculated to produce during the ensuing fiscal year an amount which, when combined with that part of the balance in the fund on June 30 of the current fiscal year which is in excess of $100,000, is equal to the sum of disbursements from the fund during the immediate past 3 calendar years. Such amount shall be prorated among the insurance companies writing compensation insurance in the state and self-insurers. The net premiums collected by the companies on workers' compensation premiums in this state and the amount of premiums a self-insurer, if insured, would have to pay in this state are the basis for computing the amount to be assessed as a percentage of net premiums. Such payments shall be made by each insurance company and self-insurer to the division for the Special Disability Trust Fund in accordance with such regulations as the division may prescribe. The Treasurer is authorized to receive and credit to such Special Disability Trust Fund any sum or sums that may at any time be contributed to the state by the United States under any Act of Congress, or otherwise, to which the state may be or become entitled by reason of any payments made out of such fund.

(i) Division administration of fund; claims; advisory committee; expenses.—The division shall administer the Special Disability Trust Fund with authority to allow, deny, compromise, controvert, and litigate claims made against it and to designate an attorney to represent it in proceedings involving claims against the fund, including negotiation and consummation of settlements, hearings before judges of compensation claims, and judicial review. The division or the attorney designated by it shall be given notice of all hearings and proceedings involving the rights or obligations of such fund and shall have authority to make expenditures for such medical examinations, expert witness fees, depositions, transcripts of testimony, and the like as may be necessary to the proper defense of any claim. The division shall appoint an advisory committee composed of representatives of management, compensation insurance carriers, and self-insurers to aid it in formulating policies with respect to conservation of the fund, who shall serve without compensation for such terms as specified by it, but be reimbursed for travel expenses as provided in s. 112.061. All expenditures made in connection with conservation of the fund, including the salary of the attorney designated to represent it and necessary travel expenses, shall be allowed and paid from the Special Disability Trust Fund as provided in this subsection upon the presentation of itemized vouchers therefor approved by the division.

(j) Effective dates.—The provisions of this subsection shall not be applicable to any case in which the accident causing the subsequent injury or death or the disablement or death from a subsequent occupational disease shall have occurred prior to July 1, 1955; and the provisions of paragraphs (e) and (f) of this subsection shall not be applicable to any case in which the accident causing the subsequent injury or death or the disablement or death from a subsequent occupational disease shall have occurred prior to July 1, 1963.

(k) Reimbursement to subsequent employer of permanently injured worker.—If an employee incurs a permanent impairment from injury or occupational disease arising out of, and in the course of, his employment and has been unemployed as a result of his injury or disease for 2 consecutive years, the employer who then employs such an employee shall be reimbursed from the fund for 50 percent of the employee's wages, not to exceed the maximum compensation rate as provided in s. 440.12, up to a period of 6 months. *Any subsequent employer seeking reimbursement under this paragraph must file a notice of claim in conformance with the rules adopted by the division within 6 months after the date of hire by the subsequent employer.*

Section 31. Section 440.52, Florida Statutes, is amended to read:

440.52 Registration of insurance carriers; suspension or revocation of authority.—

(1) Each insurance carrier who desires to write such compensation insurance in compliance with this chapter shall be required, before writing such insurance, to register with the division and pay a registration fee of $100. This shall be deposited by the division in the fund created by s. 440.50.

(2) If the division finds, after due notice and a hearing at which the insurance carrier is entitled to be heard in person or by counsel and present evidence, that the insurance carrier has repeatedly failed to comply with its obligations under this chapter, the division may request the Department of Insurance to suspend or revoke the authorization of such insurance carrier to write workers' compensation insurance under this chapter. Such suspension or revocation shall not affect the liability of any such insurance carrier under policies in force prior to the suspension or revocation.

(3) In addition to the penalties specified in subsection (2), violation of s. 440.381 by an insurance carrier shall result in the imposition of a fine not to exceed $1,000 per audit, if the insurance carrier fails to act on the audit by correcting errors in employee classifications or accepted applications for coverage if it knew employee classifications were incorrect. Such fines shall be levied by the Department of Insurance and deposited into the Insurance Commissioner's Regulatory Trust Fund.

Section 32. Subsection (6) of section 440.56, Florida Statutes, is amended to read:

440.56 Safety rules and provisions; penalty.—

(6) If any employer violates or fails or refuses to comply with any reasonable rule adopted by the division, in accordance with chapter 120, for the prevention of accidents or industrial or occupational diseases or any lawful order of the division in connection with the provisions of this section or fails or refuses to furnish or adopt any safety device, safeguard, or other means of protection prescribed by the division pursuant to this section for the prevention of accidents or industrial or occupational diseases, the division, after notice and hearing in accordance with chapter 120, may assess against such employer a civil penalty of not less than $100 nor more than $1,000. Each day such violation, omission, failure, or refusal continues after the employer has been given notice thereof in writing as herein provided shall be deemed a continuing violation~~, and the penalty may not exceed $10,000~~. *The division shall adopt rules requiring fines and penalties commensurate with the frequency and severity of safety violations not to exceed $25,000.* The hearing shall be held in the county where the violation, omission, failure, or refusal is alleged to have occurred, unless otherwise agreed to by the employer and authorized by the division. *Any such violation, omission, failure, or refusal shall be reported by the division to any appropriate state licensing board having jurisdiction over the violator; and such violation is a grounds for disciplinary action against the violator, including suspension or revocation of his license.*

Section 33. Section 440.572, Florida Statutes, is created to read:

440.572 Authorization for a self-insurer to provide coverage.—An individual self-insurer having a net worth of not less than $250,000,000 as authorized by s. 440.38(1)(e) may assume by contract the liabilities under this chapter of contractors and subcontractors, or each of them, employed by or on behalf of such individual self-insurer when performing work on or adjacent to property owned or used by the individual self-insurer. In determining the net worth of the individual self-insurer, the net worth shall include the assets of the self-insurer's parent company, its subsidiaries, sister companies, affiliated companies, and other related entities, located within the geographic boundaries of the state.

Section 34. Section 440.59, Florida Statutes, is amended to read:

440.59 Risk management report.—

(1) The Division of Workers' Compensation of the Department of Labor and Employment Security shall complete on a quarterly basis an analysis of the previous quarter's injuries which resulted in workers' compensation claims. The analysis shall be broken down by risk classification, shall show for each such risk classification the frequency and sever-

ity for the various types of injury, and shall include an analysis of the causes of such injuries. The division shall distribute to each employer and self-insurer in the state covered by the Workers' Compensation Law the data relevant to its work force. The report shall also be distributed to the insurers authorized to write workers' compensation insurance in the state.

(2) The division shall also prepare a closed claim report annually and shall submit a copy of the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on or before March 1 of each year. The closed claim report shall include but not be limited to an analysis of all claims closed during the preceding year as to the date of accident, age of the injured employee, occupation of the injured employee, type of injury, body part affected, type and duration of indemnity benefits paid, permanent impairment rating, medical benefits identified by type of health care provider, and type and cost of any rehabilitation benefits provided.

(3) The division shall also prepare an annual report and shall submit a copy of the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, the minority leaders, and the appropriate committee chairpersons on or before March 1 of each year. The annual report shall include a status report on all cases involving work-related injuries in the previous 10 years. The annual report shall include, but not be limited to, the numbers of open and closed cases, the number of cases receiving various types of benefits, the cash and medical benefits paid between the date of injury and the evaluation date, the number of litigated cases, and the amount of attorney's fees paid in each case.

Section 35. Section 489.114, Florida Statutes, is amended to read:

489.114 Evidence of workers' compensation coverage.—Any person, business organization, or qualifying agent engaged in the business of contracting in this state and certified or registered under this part shall, as a condition precedent to the issuance or renewal of a certificate or registration of the contractor, provide to the Construction Industry Licensing Board, *as provided by board rule,* evidence of workers' compensation coverage pursuant to chapter 440. *In the event that the Division of Workers' Compensation of the Department of Labor and Employment Security receives notice of the cancellation of a policy of workers' compensation insurance insuring a person or entity governed by this section, the Division of Workers' Compensation shall certify and identify all persons or entities by certification or registration license number to the department after verification is made by the Division of Workers' Compensation that such cancellation has occurred or that persons or entities governed by this section are no longer covered by workers' compensation insurance. Such certification and verification by the Division of Workers' Compensation shall result solely from records furnished to the Division of Workers' Compensation by the persons or entities governed by this section. The department shall notify the persons or entities governed by this section who have been determined to be in noncompliance with chapter 440, and the persons or entities notified shall provide certification of compliance with chapter 440 to the department and pay an administrative fine as provided by rule.* ~~by the submission to the board of a copy of the insurance policy or a certificate of insurance issued by the carrier or self insurer to the contractor showing the date and duration of the coverage.~~ The failure to maintain workers' compensation coverage *as required by law* shall be grounds for the board to revoke, suspend, or deny the issuance or renewal of a certificate or registration of the contractor under the provisions of s. 489.129. ~~The board shall establish by rule the procedures needed to monitor the maintenance of coverage by contractors.~~

Section 36. Section 489.510, Florida Statutes, is amended to read:

489.510 Evidence of workers' compensation coverage.—Any person, business organization, or qualifying agent engaged in the business of electrical contracting in this state and certified or registered under this part shall, as a condition precedent to the issuance or renewal of a certificate or registration of the electrical contractor, provide to the Electrical Contractors' Licensing Board, *as provided by board rule,* evidence of workers' compensation coverage pursuant to chapter 440. *In the event that the Division of Workers' Compensation of the Department of Labor and Employment Security receives notice of the cancellation of a policy of workers' compensation insurance insuring a person or entity governed by this section, the Division of Workers' Compensation shall certify and identify all persons or entities by certification or registration license number to the department after verification is made by the Division of Workers' Compensation that such cancellation has occurred or that persons or entities governed by this section are no longer covered by workers' compensation insurance. Such certification and verification by the Division of Workers' Compensation shall result solely from records furnished to the Division of Workers' Compensation by the persons or entities governed by this section. The department shall notify the persons or entities governed by this section who have been determined to be in noncompliance with chapter 440, and the persons or entities notified shall provide certification of compliance with chapter 440 to the department and pay an administrative fine as provided by rule.* ~~by the submission to the board of a copy of the insurance policy or a certificate of insurance issued by the carrier or self insurer to the contractor showing the date and duration of the coverage.~~ The failure to maintain workers' compensation coverage *as required by law* shall be grounds for the board to revoke, suspend, or deny the issuance or renewal of a certificate or registration of the contractor under the provisions of s. 489.533. ~~The board shall establish by rule the procedures needed to monitor the maintenance of coverage by electrical contractors.~~

Section 37. Subsection (15) is added to section 626.611, Florida Statutes, to read:

626.611 Grounds for compulsory refusal, suspension, or revocation of agent's, solicitor's, or adjuster's license or service representative's, supervising or managing general agent's, or claims investigator's permit.—The department shall deny, suspend, revoke, or refuse to renew or continue the license of any agent, solicitor, or adjuster or the permit of any service representative, supervising or managing general agent, or claims investigator, and it shall suspend or revoke the eligibility to hold a license or permit of any such person, if it finds that as to the applicant, licensee, or permittee any one or more of the following applicable grounds exist:

(15) Fraudulent or dishonest practice in submitting or aiding or abetting any person in the submission of an application for workers' compensation coverage under chapter 440 containing false or misleading information as to employee payroll or classification for the purpose of avoiding or reducing the amount of premium due for such coverage.

Section 38. Subsection (4) of section 626.869, Florida Statutes, is amended to read:

626.869 License, permit classes; adjusters, claims investigators.—

(4) Any person holding a license or permit limited to cover adjusting in workers' compensation insurance under paragraph (1)(d) and any person holding an adjuster's license of the types listed in s. 626.864, covering other lines of insurance, who adjusts workers' compensation claims, shall certify to the department every 2 years, at least 90 days prior to the renewal date of his license, the fact that the licensee has completed a course of instruction designed to inform the licensee as to the current workers' compensation laws of this state, so as to enable him to engage in such business as a workers' compensation insurance adjuster fairly and without injury to the public and to adjust all claims in accordance with the policy or contract and the workers' compensation laws of this state. In order to qualify as an eligible course under this subsection, the course shall:

(a) Consist of 24 hours of classroom instruction in the workers' compensation laws and practices of this state, 2 hours of which shall relate to ethics, with the course outline approved by the department. *It is not required that the 24 hours of classroom instruction take place at one course.*

(b) Be taught at a school training facility or other location approved by the department.

(c) Be taught by instructors with at least 5 years of experience in the area of workers' compensation, general lines of insurance, or other persons approved by the department. However, a member of The Florida Bar shall be exempt from the 5 years' experience requirement.

(d) Furnish the attendee a certificate of completion. The sponsor of the course shall send a copy of the certificate of completion to the department at its offices in Tallahassee.

Section 39. It is the intent of the Legislature to promote drug-free workplaces in order that employers in the state be afforded the opportunity to maximize their levels of productivity, enhance their competitive positions in the marketplace, and reach their desired levels of success without experiencing the costs, delays, and tragedies associated with work-related accidents resulting from drug abuse by employees. It is fur-

ther the intent of the Legislature that drug abuse be discouraged and that employees who choose to engage in drug abuse face the risk of unemployment and the forfeiture of workers' compensation benefits. If an employer implements a drug-free workplace program which includes notice, education, and testing for nonprescription controlled substances and alcohol pursuant to rules developed by the division, the employer may require the employee to submit to a test for the presence of nonprescription controlled substances or alcohol and, if a nonprescription controlled substance or alcohol is found to be present in the employee's system at a level prescribed pursuant to s. 112.0455, the employee may be terminated and shall forfeit his eligibility for medical and indemnity benefits. However, a drug-free workplace program shall require the employer to notify all employees that it is a condition of employment to refrain from taking drugs on or off the job and that employees will be subject to random drug testing at any time while at work. If an injured worker refuses to submit to a test for nonprescription controlled substances or alcohol, he forfeits his eligibility for medical and indemnity benefits.

Section 40. The Department of Insurance shall approve a rating plan for workers' compensation insurance that gives specific identifiable consideration in the setting of rates to employers that implement a program of employee drug testing approved by the Division of Workers' Compensation of the Department of Labor and Employment Security. The plan must take effect January 1, 1992, must be actuarially sound, and must state the savings anticipated to result from such drug testing program.

Section 41. Drug testing of employees covered by the Workers' Compensation Law.—

(1) DEFINITIONS.—Except where the context otherwise requires, as used in this act:

(a) "Drug" means alcohol, including distilled spirits, wine, malt beverages, and intoxicating liquors; amphetamines; cannabinoids; cocaine; phencyclidine (PCP); hallucinogens; methaqualone; opiates; barbiturates; benzodiazepines; synthetic narcotics; designer drugs; or a metabolite of any of the substances listed herein.

(b) "Drug test" or "test" means any chemical, biological, or physical instrumental analysis administered for the purpose of determining the presence or absence of a drug or its metabolites.

(c) "Initial drug test" means a sensitive, rapid, and reliable immunoassay procedure to identify negative and presumptive positive specimens.

(d) "Confirmation test," "confirmed test," or "confirmed drug test" means a second analytical procedure used to identify the presence of a specific drug or metabolite in a specimen. The confirmation test must be different in scientific principle from that of the initial test procedure. This confirmation method must be capable of providing requisite specificity, sensitivity, and quantitative accuracy.

(e) "Chain of custody" refers to the methodology of tracking specified materials or substances for the purpose of maintaining control and accountability from initial collection to final disposition for all such materials or substances and providing for accountability at each stage in handling, testing, and storing specimens and reporting test results.

(f) "Job applicant" means a person who has applied for a position with an employer and has been offered employment conditioned upon successfully passing a drug test.

(g) "Employee" means any person who works for salary, wages, or other remuneration for an employer.

(h) "Employer" means a person or entity that employs a person and that is covered by the Workers' Compensation Law.

(i) "Prescription or nonprescription medication" means a drug or medication obtained pursuant to a prescription as defined by s. 893.02 or a medication that is authorized pursuant to federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments, or injuries.

(j) "Reasonable suspicion drug testing" means drug testing based on a belief that an employee is using or has used drugs in violation of the employer's policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon:

1. Observable phenomena while at work, such as direct observation of drug use or of the physical symptoms or manifestations of being under the influence of a drug.

2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.

3. A report of drug use, provided by a reliable and credible source, which has been independently corroborated.

4. Evidence that an individual has tampered with a drug test during his employment with the current employer.

5. Information that an employee has caused, or contributed to, an accident while at work.

6. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment.

(k) "Specimen" means tissue, hair, or product of the human body capable of revealing the presence of drugs or their metabolites.

(l) "Employee assistance program" means an established program for employee assessment, counseling, and possible referral to an alcohol and drug rehabilitation program.

(m) "Safety-sensitive position" means any position, including a supervisory or management position, in which a drug impairment would constitute an immediate and direct threat to public health or safety.

(n) "Special risk" means employees who are required as a condition of employment to be certified under chapter 633 or chapter 943, Florida Statutes.

(2) DRUG TESTING.—All drug testing conducted by employers shall be in conformity with the standards established in this section and all applicable rules adopted pursuant to this section. However, employers shall not have a legal duty under this section to request an employee or job applicant to undergo drug testing. No testing of employees shall take effect until local drug abuse assistance programs have been identified.

(3) NOTICE TO EMPLOYEES AND JOB APPLICANTS.—Prior to testing, all employees and job applicants for employment must be given a written policy statement from the employer which contains:

(a) A general statement of the employer's policy on employee drug use, which shall identify:

1. The types of testing an employee or job applicant may be required to submit to, including reasonable suspicion or other basis; and

2. The actions the employer may take against an employee or job applicant on the basis of a positive confirmed drug test result.

(b) A statement advising the employee or job applicant of the existence of this section.

(c) A general statement concerning confidentiality.

(d) Procedures for employees and job applicants to confidentially report the use of prescription or nonprescription medications both before and after being tested. Additionally, employees and job applicants shall receive notice of the most common medications by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. A list of such medications shall be available to employers through the Division of Workers' Compensation of the Department of Labor and Employment Security.

(e) The consequences of refusing to submit to a drug test.

(f) Names, addresses, and telephone numbers of employee assistance programs and local alcohol and drug rehabilitation programs.

(g) A statement that an employee or job applicant who receives a positive confirmed drug test result may contest or explain the result to the employer within 5 working days after written notification of the positive test result. If an employee's or job applicant's explanation or challenge is unsatisfactory to the employer, the person may contest the drug test result pursuant to rules adopted by the Department of Labor and Employment Security.

(h) A statement informing the employee or job applicant of his responsibility to notify the laboratory of any administrative or civil action brought pursuant to this section.

(i) A list of all drugs for which the employer will test, described by brand names or common names, as applicable, as well as by chemical names.

(j) A statement regarding any applicable collective bargaining agreement or contract and the right to appeal to the Public Employees Relations Commission or applicable court.

(k) A statement notifying employees and job applicants of their right to consult the testing laboratory for technical information regarding prescription and nonprescription medication.

(l) An employer not having a drug testing program shall ensure that at least 60 days elapse between a general one-time notice to all employees that a drug testing program is being implemented and the beginning of actual drug testing. An employer having a drug testing program in place prior to the effective date of this section is not required to provide a 60-day notice period.

(m) An employer shall include notice of drug testing on vacancy announcements for those positions for which drug testing is required. A notice of the employer's drug testing policy must also be posted in an appropriate and conspicuous location on the employer's premises, and copies of the policy must be made available for inspection by the general public during regular business hours in the employer's personnel office or other suitable locations.

(4) TYPES OF TESTING.—An employer is required to conduct the following types of drug tests in order to qualify for the discounts provided under section 37 of this act:

(a) Job applicant testing.—An employer must require job applicants to submit to a drug test and may use a refusal to submit to a drug test or a positive confirmed drug test as a basis for refusal to hire the job applicant.

(b) Reasonable suspicion.—An employer must require an employee to submit to reasonable suspicion drug testing.

(c) Routine fitness for duty.—An employer must require an employee to submit to a drug test if the test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination that is part of the employer's established policy or that is scheduled routinely for all members of an employment classification or group.

(d) Follow-up testing.—If the employee in the course of employment enters an employee assistance program for drug-related problems, or an alcohol and drug rehabilitation program, the employer must require the employee to submit to a drug test as a followup to such program, and on a quarterly, semiannual, or annual basis for up to 2 years thereafter.

(5) PROCEDURES AND EMPLOYEE PROTECTION.—All specimen collection and testing for drugs under this section shall be performed in accordance with the following procedures:

(a) A sample shall be collected with due regard to the privacy of the individual providing the sample, and in a manner reasonably calculated to prevent substitution or contamination of the sample.

(b) Specimen collection shall be documented, and the documentation procedures shall include:

1. Labeling of specimen containers so as to reasonably preclude the likelihood of erroneous identification of test results.

2. A form for the employee or job applicant to provide any information he considers relevant to the test, including identification of currently or recently used prescription or nonprescription medication or other relevant medical information. Such form shall provide notice of the most common medications by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. The providing of information shall not preclude the administration of the drug test, but shall be taken into account in interpreting any positive confirmed results.

(c) Specimen collection, storage, and transportation to the testing site shall be performed in a manner which will reasonably preclude specimen contamination or adulteration.

(d) Each initial and confirmation test conducted under this section, not including the taking or collecting of a specimen to be tested, shall be conducted by a licensed laboratory as described in subsection (9).

(e) A specimen for a drug test may be taken or collected by any of the following persons:

1. A physician, a physician's assistant, a registered professional nurse, a licensed practical nurse, or a nurse practitioner.

2. A qualified person employed by a licensed laboratory.

(f) A person who collects or takes a specimen for a drug test conducted pursuant to this section shall collect an amount sufficient for two drug tests as determined by the Department of Health and Rehabilitative Services.

(g) Every specimen that produces a positive confirmed result shall be preserved in a frozen state by the licensed laboratory that conducts the confirmation test for a period of at least 210 days after the results of the positive confirmation test are mailed or otherwise delivered to the employer. However, if an employee or job applicant undertakes an administrative or legal challenge to the test result, the employee or job applicant shall notify the laboratory and the sample shall be retained by the laboratory until the case or administrative appeal is settled. During the 180-day period after written notification of a positive test result, the employee or job applicant who has provided the specimen shall be permitted by the employer to have a portion of the specimen retested, at the employee's or job applicant's expense, at another laboratory, licensed and approved by the Department of Health and Rehabilitative Services, chosen by the employee or job applicant. The second laboratory must test at equal or greater sensitivity for the drug in question as the first laboratory. The first laboratory which performed the test for the employer shall be responsible for the transfer of the portion of the specimen to be retested, and for the integrity of the chain of custody during such transfer.

(h) Within 5 working days after receipt of a positive confirmed test result from the testing laboratory, an employer shall inform an employee or job applicant in writing of such positive test result, the consequences of such results, and the options available to the employee or job applicant.

(i) The employer shall provide to the employee or job applicant, upon request, a copy of the test results.

(j) Within 5 working days after receiving notice of a positive confirmed test result, the employee or job applicant may submit information to an employer explaining or contesting the test results, and why the results do not constitute a violation of the employer's policy.

(k) If an employee's or job applicant's explanation or challenge of the positive test results is unsatisfactory to the employer, a written explanation as to why the employee's or job applicant's explanation is unsatisfactory, along with the report of positive results, shall be provided by the employer to the employee or job applicant; and all such documentation shall be kept confidential by the employer pursuant to subsection (8) and shall be retained by the employer for at least 1 year.

(l) No employer may discharge, discipline, refuse to hire, discriminate against, or request or require rehabilitation of an employee or job applicant on the sole basis of a positive test result that has not been verified by a confirmation test.

(m) An employer who performs drug testing or specimen collection shall use chain-of-custody procedures as established by the Department of Health and Rehabilitative Services to ensure proper recordkeeping, handling, labeling, and identification of all specimens to be tested.

(n) An employer shall pay the cost of all drug tests, initial and confirmation, which he requires of employees.

(o) An employee or job applicant shall pay the costs of any additional drug tests not required by the employer.

(p) No employer shall discharge, discipline, or discriminate against an employee solely upon the employee's voluntarily seeking treatment, while under the employ of the employer, for a drug-related problem if the

employee has not previously tested positive for drug use, entered an employee assistance program for drug-related problems, or entered an alcohol and drug rehabilitation program.

(q) If testing is conducted based on reasonable suspicion, the employer shall promptly detail in writing the circumstances which formed the basis of the determination that reasonable suspicion existed to warrant the testing. A copy of this documentation shall be given to the employee upon request and the original documentation shall be kept confidential by the employer pursuant to subsection (9) and retained by the employer for at least 1 year.

(6) CONFIRMATION TESTING.—

(a) If an initial drug test is negative, the employer may in its sole discretion seek a confirmation test.

(b) Only licensed laboratories as described in subsection (9) shall conduct confirmation drug tests.

(c) All positive initial tests shall be confirmed using gas chromatography/mass spectrometry (GC/MS) or an equivalent or more accurate scientifically accepted method approved by the Department of Health and Rehabilitative Services as such technology becomes available in a cost-effective form.

(7) EMPLOYER PROTECTION.—

(a) No employee or job applicant whose drug test result is confirmed as positive in accordance with the provisions of this section shall, by virtue of the result alone, be defined as a person having a "handicap" as cited in the 1973 Rehabilitation Act.

(b) An employer who discharges or disciplines an employee or refuses to hire a job applicant in compliance with this section shall be considered to have discharged, disciplined, or refused to hire for cause.

(c) No physician-patient relationship is created between an employee or job applicant and an employer or any person performing or evaluating a drug test, solely by the establishment, implementation, or administration of a drug testing program.

(d) Nothing in this section shall be construed to prevent an employer from establishing reasonable work rules related to employee possession, use, sale, or solicitation of drugs, including convictions for drug-related offenses, and taking action based upon a violation of any of those rules.

(e) Nothing in this section shall be construed to operate retroactively, and nothing in this section shall abrogate the right of an employer under state law to conduct drug tests, or implement employee drug testing programs, prior to October 1, 1990; however, only those programs that meet the criteria outlined in this section qualify for reduced rates under section 37 of this act.

(f) If an employee or job applicant refuses to submit to a drug test, the employer shall not be barred from discharging or disciplining the employee or from refusing to hire the job applicant. However, nothing in this paragraph shall abrogate the rights and remedies of the employee or job applicant as otherwise provided in this section.

(g) Nothing in this section shall be construed to prohibit an employer from conducting medical screening or other tests required by any statute, rule, or regulation for the purpose of monitoring exposure of employees to toxic or other unhealthy substances in the workplace or in the performance of job responsibilities. Such screening or tests shall be limited to the specific substances expressly identified in the applicable statute, rule, or regulation, unless prior written consent of the employee is obtained for other tests.

(8) CONFIDENTIALITY.—The provisions of section 119.07, Florida Statutes, to the contrary notwithstanding:

(a) All information, interviews, reports, statements, memoranda, and drug test results, written or otherwise, received by the employer through a drug testing program are confidential communications and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in accordance with this section or in determining compensability under chapter 440, Florida Statutes.

(b) Employers, laboratories, employee assistance programs, drug and alcohol rehabilitation programs, and their agents who receive or have access to information concerning drug test results shall keep all information confidential. Release of such information under any other circumstance shall be solely pursuant to a written consent form signed voluntarily by the person tested, unless such release is compelled by a hearing officer or a court of competent jurisdiction pursuant to an appeal taken under this section, or unless deemed appropriate by a professional or occupational licensing board in a related disciplinary proceeding. The consent form must contain, at a minimum:

1. The name of the person who is authorized to obtain the information.

2. The purpose of the disclosure.

3. The precise information to be disclosed.

4. The duration of the consent.

5. The signature of the person authorizing release of the information.

(c) Information on drug test results shall not be released or used in any criminal proceeding against the employee or job applicant. Information released contrary to this section shall be inadmissible as evidence in any such criminal proceeding.

(d) Nothing herein shall be construed to prohibit the employer, agent of the employer, or laboratory conducting a drug test from having access to employee drug test information when consulting with legal counsel in connection with actions brought under or related to this section or when the information is relevant to its defense in a civil or administrative matter.

(9) DRUG TESTING STANDARDS; LABORATORIES.—

(a) No laboratory may analyze initial or confirmation drug specimens unless:

1. The laboratory is licensed and approved by the Department of Health and Rehabilitative Services using criteria established by the National Institute on Drug Abuse.

2. The laboratory has written procedures to ensure the chain of custody.

3. The laboratory follows proper quality control procedures, including, but not limited to:

a. The use of internal quality controls including the use of samples of known concentrations which are used to check the performance and calibration of testing equipment, and periodic use of blind samples for overall accuracy.

b. An internal review and certification process for drug test results, conducted by a person qualified to perform that function in the testing laboratory.

c. Security measures implemented by the testing laboratory to preclude adulteration of specimens and drug test results.

d. Other necessary and proper actions taken to ensure reliable and accurate drug test results.

(b) A laboratory shall disclose to the employer a written test result report within 7 working days after receipt of the sample. All laboratory reports of a drug test result shall, at a minimum, state:

1. The name and address of the laboratory which performed the test and the positive identification of the person tested.

2. Positive results on confirmation tests only, or negative results, as applicable.

3. A list of the drugs for which the drug analyses were conducted.

4. The type of tests conducted for both initial and confirmation tests and the minimum cut-off levels of the tests.

5. Any correlation between medication reported by the employee or job applicant pursuant to subparagraph (5)(b)2. and a positive confirmed drug test result.

No report shall disclose the presence or absence of any drug other than a specific drug and its metabolites listed pursuant to this section.

(c) The laboratory shall submit to the Department of Health and Rehabilitative Services a monthly report with statistical information regarding the testing of employees and job applicants. The report shall include information on the methods of analyses conducted, the drugs tested for, the number of positive and negative results for both initial and confirmation tests, and any other information deemed appropriate by the Department of Health and Rehabilitative Services. No monthly report shall identify specific employees or job applicants.

(d) Laboratories shall provide technical assistance to the employer, employee, or job applicant for the purpose of interpreting any positive confirmed test results which could have been caused by prescription or nonprescription medication taken by the employee or job applicant.

(10) RULES.—

(a) The Department of Health and Rehabilitative Services is hereby authorized to adopt rules following criteria established by the National Institute on Drug Abuse concerning, but not limited to:

1. Standards for drug testing laboratory licensing and suspension and revocation of a license.

2. Body specimens and minimum specimen amounts which are appropriate for drug testing.

3. Methods of analysis and procedures to ensure reliable drug testing results, including standards for initial tests and confirmation tests.

4. Minimum cut-off detection levels for drugs or their metabolites for the purposes of determining a positive test result.

5. Chain-of-custody procedures to ensure proper identification, labeling, and handling of specimens being tested.

6. Retention, storage, and transportation procedures to ensure reliable results on confirmation tests and retests.

7. A list of the most common medications by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test.

(b) The Department of Labor and Employment Security may adopt rules for all employers that implement a program pursuant to this section.

(c) This section shall not be construed to eliminate the bargainable rights as provided in the collective bargaining process if applicable.

Section 42. Section 43 of chapter 89-289, Laws of Florida, is hereby repealed.

Section 43. Any employer who is a self-insurer on the effective date of this act and who fails to meet the requirements of section 440.38(1)(b)1., Florida Statutes, may elect to provide the reports and ost security in accordance with the terms of section 440.38(1)(b)2., Florida Statutes, as a condition of continuing to exercise the privilege of self-insurance.

Section 44. It is the intent of the Legislature that it take the necessary action to return to the Workers' Compensation Administration Trust Fund as soon as possible the sum of $1,500,000 which was advanced from the trust fund in 1979 to implement the transfer of workers' compensation appellate cases to the First District Court of Appeal or, in the alternative, to allocate space in the First District Court of Appeal building to the Industrial Relations Commission created by this act.

Section 45. Section 38 of chapter 89-289, Laws of Florida, is hereby repealed.

Section 46. (1) There is hereby appropriated from the Workers' Compensation Administration Trust Fund to the Department of Labor and Employment Security for fiscal year 1990-1991 _____ full-time equivalent positions and the sum of $1 to create and fund the Division of Safety within the Department of Labor and Employment Security.

(2) There is hereby appropriated from the Workers' Compensation Administration Trust Fund to the Department of Labor and Employment Security for fiscal year 1990-1991 full-time equivalent positions and the sum of to implement the provisions of this act.

(3) There is hereby appropriated from the Workers' Compensation Administration Trust Fund to the Industrial Relations Commission for fiscal year 1990-1991 _____ full-time equivalent positions and the sum of to establish the Industrial Relations Commission.

(4) There is hereby appropriated from the Workers' Compensation Administration Trust Fund to the Department of Insurance for fiscal year 1990-1991 eleven full-time equivalent positions and the sum of $665,351 to fund the Bureau of Workers' Compensation Insurance Fraud.

Section 47. (1) All authorized insurers, self-insurance pools, and commercial self-insurance pools writing workers' compensation or employers' liability insurance in this state shall implement rate reductions effective July 1, 1990, for workers' compensation and employers' liability insurance policies written in this state as set forth in this section.

(a) For policies with an effective date on or after July 1, 1990, the premium for an insured shall be calculated in accordance with the rates filed and applicable January 1, 1990, reduced by 30 percent.

(b) For policies in force with an effective date between January 1, 1990, and June 30, 1990, inclusive, the premium shall be readjusted implementing a 30 percent reduction. The reduction shall be implemented by a refund to those insured that have prepaid premiums and by providing credits to remaining installments to reflect the 30 percent reduction for those insureds paying premiums on installment plans.

(c) Premiums shall remain at levels required in this section until approval of a rate filing authorized by subsection (3).

(2) The provisions of this section do not apply to portions of policies providing coverage under the United States Longshore and Harbor Workers' Act.

(3) Notwithstanding any other provisions of law, insurers may not file until March 1, 1991, rate filings effective on or after July 1, 1991.

(4) The rate filing authorized by subsection (3) shall be calculated using a presumption that reflects a reduction of 35 percent as a result of the provisions in this act. The presumed reduction shall be explicitly expressed and accounted for in the filing. The Department of Insurance shall incorporate the presumed reduction in the approved rate unless the presumed reduction:

(a) Results in inadequate rates as to any class of insurer authorized by law to write workers' compensation insurance in this state; or

(b) Significantly impairs the availability of workers' compensation coverage.

Section 48. The sum of $285,145 is hereby appropriated from the Insurance Commissioner's Regulatory Trust Fund to the Department of Insurance, and 4 full-time equivalent positions are authorized for the department, for fiscal year 1990-1991 to fund the medical care and cost pilot projects provided by this act.

Section 49. The sum of $144,145 is hereby appropriated to the Department of Professional Regulation from the Professional Regulation Trust Fund, and 5 full-time equivalent positions are authorized, for fiscal year 1990-1991 to administer the provisions of this act.

Section 50. If the provisions of this act requiring a refund of premiums or rate reductions are held unconstitutional by a court of competent jurisdiction, it is the intent of the Legislature that the amendments contained in this act shall be null and void and that those amended sections revert to the language existing prior to this act becoming a law.

Section 51. This act shall take effect July 1, 1990, or upon becoming a law, whichever occurs later.

Senator Jennings moved the following amendments to Amendment 1 which were adopted:

Amendment 1A—On page 55, line 28, strike "*October 1, 1990*" and insert: *July 1, 1990*

Amendment 1B—On page 67, lines 30 and 31, and on page 68, lines 1 and 2, strike all of said lines and insert: marriage or marriages, the judge of compensation claims may provide for the payment of compensation in such manner as may appear to the judge of compensation claims just and proper and for the best interests of the

Amendment 1C—On page 79, line 21, after "*filing*" insert: *of the request for hearing*

Amendment 1D—On page 85, strike all of lines 13 and 14 and insert:

Section 20. Subsections (2), (3), and (5) of section 440.34, Florida Statutes, are amended, and subsection (7) is added to said

Amendment 1E—On page 124, line 26, strike "*15*" and insert: *5*

Amendment 1F—On page 86, between lines 12 and 13, insert:

(3) If the claimant should prevail in any proceedings before a judge of compensation claims, *the Industrial Relations Commission,* or court, there shall be taxed against the employer the reasonable costs of such proceedings, not to include the attorney's fees of the claimant. A claimant shall be responsible for the payment of his own attorney's fees, except that a claimant shall be entitled to recover a reasonable attorney's fee from a carrier or employer:

(a) Against whom he successfully asserts a claim for medical benefits only, if the claimant has not filed or is not entitled to file at such time a claim for disability, permanent impairment, wage-loss, or death benefits, arising out of the same accident; ~~or~~

(b) In any case in which the employer or carrier fails or refuses to pay a claim filed with the division which meets the requirements of s. 440.19(1)(d) on or before the 21st day after receiving notice of the claim and the injured person has employed an attorney in the successful prosecution of his claim; ~~or~~

(c) In a proceeding in which a carrier or employer denies that an injury occurred for which compensation benefits are payable, and the claimant prevails on the issue of compensability; or

(d) In cases where the claimant successfully prevails in proceedings filed under s. 440.24 or s. 440.28.

In applying the factors set forth in subsection (1) to cases arising under paragraphs (a), (b), (c), and (d) of this subsection, the judge of compensation claims shall only consider such benefits and the time reasonably spent in obtaining them as were secured for the claimant within the scope of paragraphs (a), (b), (c), and (d) of this subsection.

(5) If any proceedings are had for review of any claim, award, or compensation order before *the Industrial Relations Commission or* any court, the *commission or* court may award the injured employee or dependent an attorney's fee to be paid by the employer or carrier, in its discretion, which shall be paid as the *commission or* court may direct.

Amendment 1G—On page 170, strike all of lines 17 and 18 and insert: 1990-1991 16 full-time equivalent positions and the sum of $550,249 to create and fund the Division of Safety within the

Amendment 1H—On page 170, strike all of lines 23 and 24 and insert: 208 full-time equivalent positions and the sum of $9,343,022 to implement the provisions of this act.

Amendment 1I—On page 170, between lines 24 and 25, insert:

(3) There is hereby appropriated from the Insurance Commissioner's Regulatory Trust Fund to the Department of Insurance for fiscal year 1990-1991 4 full-time equivalent positions and the sum of $285,145 to implement the pilot programs created in this act.

(Renumber subsequent subsections.)

Amendment 1J—On page 170, strike all of lines 25-29 and renumber subsequent subsections.

Amendment 1K—On page 172, line 31, insert:

Section 51. If any provision of this act or the application thereof, except Section 47 of this act, to any person or circumstance is held invalid, the invalidity shall not affect any other provision or application of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

(Renumber subsequent sections.)

Amendment 1L—On page 173, strike line 1 and insert:

Section 51. Except as otherwise provided herein, this act shall take effect July 1, 1990.

Amendment 1M—On page 75, between lines 29 and 30, insert:

(g) To facilitate the earliest possible resolution of conflicts in workers' compensation cases, it shall be the responsibility of the division to take a proactive stance in the prevention and resolution of disputed issues. Upon receipt by the division of notice of disputed issues, whether received formally or informally, or of a claim for benefits filed under this chapter, the division shall, in accordance with its rules, ascertain whether the disputed issues can be resolved without a hearing. Upon determining that disputed issues can be resolved without a hearing, the division shall make or cause to be made such investigation as is considered necessary with respect to the disputed issues, which shall include a written dispute resolution report of whether requested benefits, services, or treatment are due and owing. Copies of the dispute resolution report shall be provided to the claimant, employer, and carrier and shall be made a part of the division file. Upon a finding by the division that benefits, services, or treatment are due and owing, it shall be the responsibility of the division to assist the requesting party in securing payment or provision of the same. Upon a finding by the division that benefits, services, or treatment are not due and owing, it shall be the responsibility of the division to inform the requesting party of the same. Any such decision by the division shall be advisory. At any mediation conference or hearing before the judge of compensation claims, the decision of the division shall not be res judicata, but shall be included in the division case file and may be considered by the general or special master or by the judge of compensation claims in reaching any decision.

Amendment 1N—On page 125, strike all of lines 13-16 and insert: nominating commission ~~in the appellate district in which the judge of compensation claims principally conducts hearings, which commission shall determine whether such judge of compensation claims shall be retained in office~~. *Evaluation*

Amendment 1O—On page 124, strike all of lines 21 and 22 and insert: *up of one person from each of the judge of compensation claims' districts and appointed by the Governor.* The meetings and

Amendment 1P—On page 159, line 14, and on page 164, line 31, strike "section 37 of this act" and insert: the rating plan for workers' compensation insurance that gives specific identifiable consideration in the setting of rates to employers that implement a program of employee drug testing approved by the Division of Workers' Compensation of the Department of Labor and Employment Security

Senator Langley moved the following amendments to Amendment 1 which were adopted:

Amendment 1Q—On page 36, line 13, after the period (.) insert: There shall not be monetary liability on the part of, and no cause of action for damages shall arise against, a health care provider rendering an evaluation under this subsection, without a showing of fraud or malice.

Amendment 1R—On page 36, line 28, after the period (.) insert: *All indemnity benefits shall terminate during any period in which the employee fails to report to and cooperate with such evaluation.*

Amendment 1S—On page 47, line 3, after "rate" insert: *at the time of his injury*

Amendment 1T—On page 85, strike all of lines 11 and 12 and insert: Commission shall be entitled to expedited disposition within the time and the manner prescribed by the Florida Appellate Rules.

Senator D. Childers moved the following amendments to Amendment 1 which were adopted:

Amendment 1U—On page 96, between lines 13 and 14, insert:

Section 24. Insurers shall not refuse to provide workers' compensation coverage on the basis of the applicant's premium volume.

(Renumber subsequent sections.)

Amendment 1V—On page 96, between lines 13 and 14, insert:

Section 24. Insurers providing workers' compensation coverage under chapter 440, Florida Statutes, shall provide, upon request of the employer, policies providing for the payment of premiums by installment for policies with annual premiums exceeding $1,000.

(Renumber subsequent sections.)

Senator D. Childers moved the following amendment to Amendment 1 which failed:

Amendment 1W—On page 172, line 31, insert:

Section 51. (1) For insurance policies issued or renewed on or after the effective date of this act and before July 1, 1991, all authorized insurers must use rates adjusted for credits or surcharges that were in existence on December 31, 1989.

(2) Any insurer or rating organization which contends that the rate provided for in subsection (1) is excessive, inadequate, or unfairly discriminatory shall separately state in its next rate filing the rate it contends is appropriate and shall state with specificity the factors or data which it contends should be considered in order to produce such appropriate rate. The insurer or rating organization shall be permitted to use all of the generally accepted actuarial techniques, as provided in section 627.062, Florida Statutes, in making any filing pursuant to this subsection. The Department of Insurance shall review each such exception and approve or disapprove it pursuant to applicable rating provisions.

(Renumber subsequent section.)

Senator Gordon moved the following amendment to Amendment 1 which failed:

Amendment 1X—On page 16, lines 26-31, and on page 17, lines 1-25, strike all of said lines and insert:

(24)~~(23)~~ "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the injury, together with the reasonable value of *housing furnished to the employee by the employer which is the residence of the employee, and gratuities to the extent reported to the employer in writing as taxable income* ~~board, meals, rent, housing, lodging, parking; employer contributions for uniforms or cleaning allowances; employer contributions for legal, life, health, accident, or disability insurance for the employee or dependents, excluding social security benefits; contributions to pension plans to the extent that the employee's rights have vested; any other consideration received from the employer that is considered income under the Internal Revenue Code in effect on January 1, 1987; and gratuities~~ received in the course of employment from others than the employer *and employer contributions for health insurance for the employee or his dependents,* ~~only when such gratuities are received with the knowledge of the employer~~. In employment in which an employee receives consideration other than cash as a portion of this compensation, the reasonable value of such compensation shall be the actual cost to the employer *or, in the case of housing compensation, based upon the Fair Market Rent Survey promulgated pursuant to section 8 of the Housing and Urban Development Act of 1974, whichever is less. The reasonable value of employer contributions for health insurance for the employee or dependents shall be the actual cost to the employer. However, if employer contributions for housing and health insurance are continued after the time of the injury, then such items shall not be "wages" for the purpose of calculating an employee's average weekly wage.*

Senator Weinstein moved the following amendment to Amendment 1 which was adopted:

Amendment 1Y—On page 17, line 16, after the period (.) insert: *However, housing furnished to migrant workers shall be included in wages unless provided after the time of injury.*

Senator Weinstein moved the following amendment to Amendment 1 which failed:

Amendment 1Z—On page 45, line 23, through page 67, line 3, strike all of said lines and insert:

Section 12. Section 440.15, Florida Statutes, is amended to read:

440.15 Compensation for disability.—Compensation for disability shall be paid to the employee, subject to the limits provided in s. 440.12(2), as follows:

(1) PERMANENT TOTAL DISABILITY.—

(a) In case of total disability adjudged to be permanent, 66⅔ percent of the average weekly wages shall be paid to the employee during the continuance of such total disability.

(b) Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof or paraplegia or quadriplegia shall, in the absence of conclusive proof of a substantial earning capacity, constitute permanent total disability. In all other cases, permanent total disability shall be determined in accordance with the facts. In such other cases, no compensation shall be payable under paragraph (a) if the employee is engaged in, or is physically capable of engaging in, gainful employment; and the burden shall be upon the employee to establish that he is not able uninterruptedly to do even light work due to physical limitation.

(c) In cases of permanent total disability resulting from injuries which occurred prior to July 1, 1955, such payments shall not be made in excess of 700 weeks.

(d) If an employee who is being paid compensation for permanent total disability becomes rehabilitated to the extent that he establishes an earning capacity, he shall be paid, instead of the compensation provided in paragraph (a), wage-loss benefits pursuant to paragraph (3)(b). The division shall adopt rules to enable a permanently and totally disabled employee who may have reestablished an earning capacity to undertake a trial period of reemployment without prejudicing his return to permanent total status in the case that such employee is unable to sustain an earning capacity.

(e)1. In case of permanent total disability resulting from injuries which occurred subsequent to June 30, 1955, and for which the liability of the employer for compensation has not been discharged under the provisions of s. 440.20(12), the injured employee shall receive additional weekly compensation benefits equal to 5 percent of his weekly compensation rate, as established pursuant to the law in effect on the date of his injury, multiplied by the number of calendar years since the date of injury. The weekly compensation payable and the additional benefits payable pursuant to this paragraph, when combined, shall not exceed the maximum weekly compensation rate in effect at the time of payment as determined pursuant to s. 440.12(2). These supplemental benefits shall be paid by the division out of the Workers' Compensation Administration Trust Fund when the injury occurred subsequent to June 30, 1955, and before July 1, 1984. These supplemental benefits shall be paid by the employer when the injury occurred on or after July 1, 1984. Supplemental benefits are not payable for any period prior to October 1, 1974.

2.a. The division shall provide by rule for the periodic reporting to the division of all earnings of any nature and social security income by the injured employee entitled to or claiming additional compensation under subparagraph 1. Neither the division nor the employer or carrier shall make any payment of those additional benefits provided by subparagraph 1. for any period during which the employee willfully fails or refuses to report upon request by the division in the manner prescribed by such rules.

b. The division shall provide by rule for the periodic reporting to the employer or carrier of all earnings of any nature and social security income by the injured employee entitled to or claiming benefits for permanent total disability. The employer or carrier shall not be required to make any payment of benefits for permanent total disability for any period during which the employee willfully fails or refuses to report upon request by the employer or carrier in the manner prescribed by such rules.

3. When an injured employee receives a full or partial lump-sum advance of the employee's permanent total disability compensation benefits, the employee's benefits under this paragraph shall be computed on the employee's weekly compensation rate as reduced by the lump-sum advance.

(2) TEMPORARY TOTAL DISABILITY.—

(a) In case of disability total in character but temporary in quality, 66⅔ percent of the average weekly wages shall be paid to the employee during the continuance thereof, not to exceed 350 weeks except as provided in s. 440.12(1).

(b) Notwithstanding the provisions of paragraph (a), an employee who has sustained the loss of an arm, leg, hand, or foot, or within a reasonable medical certainty the anticipated permanent and total loss of use of such member because of organic damage to the nervous system, or has lost the sight of both eyes shall be paid temporary total disability of 80 percent of his average weekly wage until such employee has completed his training in the use of artificial members or appliances as necessary and completed training or education under a program pursuant to s. 440.49, if provided. In no event should the increased temporary total disability compensation provided for in this paragraph extend beyond 6 months from the date of injury. The compensation provided by this paragraph is not subject to the limits provided in s. 440.12(2), but instead is subject to a maximum weekly compensation rate of $700. If, at the conclusion of this period of increased temporary total disability compensa-

tion, the employee is still temporarily totally disabled, the employee shall continue to receive temporary total disability compensation as set forth in paragraphs (a) and (c). The period of time the employee has received this increased compensation will be counted as part of, and not in addition to, the maximum periods of time for which the employee is entitled to compensation under paragraph (a) but not paragraph (c).

(c) Temporary total disability benefits paid pursuant to this subsection shall include such period as may be reasonably necessary for training in the use of artificial members and appliances, and shall include such period as the employee may be receiving training and education under a program pursuant to s. 440.49(1). Notwithstanding s. 440.02(8), the date of maximum medical improvement for purposes of paragraph (3)(b) shall be no earlier than the last day for which such temporary disability benefits are paid.

(3) PERMANENT IMPAIRMENT AND WAGE-LOSS BENEFITS.—

(a) Impairment benefits.—

1. In case of permanent impairment due to amputation, loss of 80 percent or more of vision of either eye, after correction, or serious facial or head disfigurement resulting from an injury other than an injury entitling the injured worker to permanent total disability benefits pursuant to subsection (1), there shall be paid to the injured worker the following:

a. Two hundred and fifty dollars for each percent of permanent impairment of the body as a whole from 1 percent through 10 percent; and

b. Five hundred dollars for each percent of permanent impairment of the body as a whole for that portion in excess of 10 percent.

2. Once the employee has reached the date of maximum medical improvement, impairment benefits are due and payable within 20 days after the carrier has knowledge of the impairment.

3. *The three-member panel, in cooperation with the division, shall establish and use a uniform disability rating guide by January 1, 1991. This guide shall be based on medically or scientifically demonstrable findings as well as the systems and criteria set forth in the American Medical Association's Guides to the Evaluation of Permanent Impairment; the Snellen Charts, published by American Medical Association Committee for Eye Injuries; and the Minnesota Department of Labor and Industry Disability Schedules. The guide shall be more comprehensive than the AMA Guides to the Evaluation of Permanent Impairment and shall expand the areas already addressed and address additional areas not currently contained in the guides.* ~~In order to reduce litigation and establish more certainty and uniformity in the rating of permanent impairment, the division shall establish and use a schedule for determining the existence and degree of permanent impairment based upon medically or scientifically demonstrable findings. The schedule shall be based on generally accepted medical standards for determining impairment and may incorporate all or part of any one or more generally accepted schedules used for such purpose, such as the American Medical Association's Guides to the Evaluation of Permanent Impairment.~~ On August 1, 1979, and pending the adoption, by rule, of a permanent schedule, Guides to the Evaluation of Permanent Impairment, copyright 1977, 1971, *1988,* by the American Medical Association, shall be the temporary schedule and shall be used for the purposes hereof. *For injuries after July 1, 1990, pending the adoption by division rule of a uniform disability rating guide, the Minnesota Department of Labor and Industry Disability Schedule shall be temporarily used unless that schedule does not address an injury. In such case, the Guides to the Evaluation of Permanent Impairment by the American Medical Association, shall be used.*

(b) Wage-loss benefits.—

1. Each injured worker who suffers a permanent impairment, which permanent impairment is determined pursuant to the schedule adopted in accordance with subparagraph (a)3., *is not based solely on subjective complaints, and results in one or more work-related physical restrictions which are directly attributable to the injury,* may be entitled to wage-loss benefits under this subsection, provided that such permanent impairment results in a work-related physical restriction which affects such employee's ability to perform the activities of his usual or other appropriate employment. Such benefits shall be based on actual wage loss and shall not be subject to the minimum compensation rate set forth in s. 440.12(2). Subject to the maximum compensation rate as set forth in s. 440.12(2), such wage-loss benefits shall be equal to *85* ~~95~~ percent of the difference between 85 percent of the employee's average weekly wage and the salary, wages, and other remuneration the employee is able to earn after reaching maximum medical improvement, as compared weekly; however, the weekly wage-loss benefits shall not exceed an amount equal to 66⅔ percent of the employee's average weekly wage at the time of injury. In order to simplify the comparison of the preinjury average weekly wage with the salary, wages, and other remuneration the employee is able to earn after reaching maximum medical improvement, the division may by rule provide for the modification of the weekly comparison so as to coincide as closely as possible with the injured worker's pay periods. In determining the amount the employee is able to earn in any month after injury, commissions and similar irregular payments shall be allocated first to the week in which they are received, in an amount which when added to other earnings for such week does not exceed the employee's average weekly wage, and the balance in the same manner to the subsequent weeks until fully allocated, but not to exceed 52 weeks from the week that the commission or a similar irregular payment was received.

2. The amount determined to be the salary, wages, and other remunerations the employee is able to earn after reaching the date of maximum medical improvement shall in no case be less than the sum actually being earned by the employee, including earnings from sheltered employment. ~~Whenever a wage-loss benefit as set forth in subparagraph 1. may be payable, the burden shall be on the employee to establish that any wage loss claimed is the result of the compensable injury. It shall also be the burden of the employee to show that his inability to obtain employment or to earn as much as he earned at the time of his industrial accident is due to physical limitation related to his accident and not because of economic conditions or the unavailability of employment or his own misconduct. In the event the employee voluntarily limits his income or fails to accept employment commensurate with his abilities, or is terminated from employment due to his own misconduct, it shall be presumed, in the absence of substantial evidence to the contrary, that the salary, wages, and other remuneration that the employee was able to earn for such period that the employee voluntarily limited his income or failed to accept employment commensurate with his abilities or was terminated from employment due to his own misconduct is the amount which would have been earned if the employee had not limited his income or failed to accept appropriate employment or had not been terminated from employment due to his own misconduct. The amount deemed shall be applied against the next two biweekly payments.~~ In the case of an employee who has not voluntarily limited his income or who has not failed to accept employment commensurate with his abilities or who was not terminated from employment due to his own misconduct, and who has made a good faith attempt to find employment after attaining maximum medical improvement but remains unemployed, it shall be presumed that the salary, wages, and other remuneration the employee is able to earn was zero for each week that the employee made a good faith attempt to find employment within his physical and vocational capabilities. However, beginning on the 13th week after the employee has attained maximum medical improvement, if an employee does not obtain and maintain employment, the employer may show that the salary, wages, and other remuneration the employee is able to earn is greater than zero by proving the existence of actual job openings within a reasonable geographical area which the employee is physically and vocationally capable of performing, in which case the amount the employee is able to earn may be deemed to be the amount the judge of compensation claims finds that the employee could earn in such jobs. The amount deemed shall be applied against the next *three* ~~two~~ biweekly payments.

3. An injured worker requesting wage-loss benefits for any period during which such injured worker was unemployed shall have a duty to make reasonable and good faith efforts to obtain suitable gainful employment on a consistent basis. "Suitable gainful employment" means employment which is reasonably attainable in light of the individual's age, education, personal aptitudes, previous vocational experience, and physical abilities. For any such period, the employer may require the injured worker's request for wage-loss benefits to include verification of the injured worker's efforts to obtain suitable gainful employment, which verification shall be made on forms prescribed by the division. In determining whether the injured worker has made reasonable and good faith efforts to obtain suitable gainful employment, the judge of compensation claims shall consider the availability of suitable employment in the area of the injured worker's residence, the injured worker's access to transportation, and the effect of the injured worker's physical and mental impairments upon his ability to conduct job search activities. Unless otherwise provided under this section, an injured worker requesting wage-loss bene-

fits for any period during which he shall have been unemployed shall not be entitled to such benefits if the injured worker failed or refused to make reasonable and good faith efforts to obtain suitable gainful employment during such period.

4. The right to wage-loss benefits shall terminate *upon the occurrence of the earliest of the following*:

a. As of the end of any 2-year period commencing at any time subsequent to the month when the injured employee reaches the date of maximum medical improvement, unless during such 2-year period wage-loss benefits shall have been payable during at least 3 consecutive months. *This limitations period shall not be tolled or extended by the incarceration of the employee or by virtue of the employee becoming an inmate of a penal institution.*;

b. For injuries occurring on or before July 1, 1980, 350 weeks after the injured employee reaches the date of maximum medical improvement.; ~~or~~

c. For injuries occurring after July 1, 1980, *but before July 1, 1990,* 525 weeks after the injured employee reaches maximum medical improvement.;

~~whichever comes first.~~

d. For injuries occurring after June 30, 1990, 365 weeks after the injured employee reaches maximum medical improvement.

5. Notwithstanding subparagraph 4., the right to wage-loss benefits shall terminate if, within a 2-year period, there are three occurrences of any of the following incidents:

a. The employee voluntarily terminates his employment for reasons unrelated to his compensable injury.

b. The employee refuses an offer of suitable or reasonable employment within his restrictions and abilities.

c. The employee is terminated from employment due to his own misconduct as defined in s. 440.12(16).

d. The employee voluntarily limits his income.

Each of the three occurrences must be in a different biweekly period and by a different employer. Additionally, for each of the above occurrences, the employee may be disqualified from receiving wage-loss benefits for 3 biweekly periods.

~~6.~~5. If an employee is entitled to both wage-loss benefits and social security retirement benefits under 42 U.S.C. ss. 402 and 405, such social security retirement benefits shall be primary and the wage-loss benefits shall be supplemental only. The sum of the two benefits shall not exceed the amount of wage-loss benefits which would otherwise be payable. For the purposes of termination of wage-loss benefits pursuant to subsubparagraph 4.a., the term "payable" shall be construed to include payment of social security retirement benefits in lieu of wage-loss benefits. However, the reduction of wage-loss benefits under the provisions of this subparagraph is not applicable to any wage-loss benefits payable to an employee for any month subsequent to the month in which the employee reaches the age of 70 years.

~~7.~~6. Beginning with the 25th month after maximum medical improvement and for the purpose of determining wage-loss benefits, the total wages, salary, and other remuneration for the week in consideration shall be discounted as follows:

a. For those injuries occurring on or after July 1, 1979, and on or before July 1, 1980, by a factor of 3 percent and compounded annually at 3 percent thereafter; and

b. For those injuries occurring after July 1, 1980, by a factor of 5 percent and compounded annually at 5 percent thereafter.

However, with respect to any year in which the annual rate of inflation, calculated by using the national Consumer Price Index published by the United States Department of Labor, is less than the applicable discount factor, such rate shall be substituted for such discount factor for that year.

~~8.~~7. The division shall keep such records and conduct such investigations as are necessary to determine the feasibility of providing additional protection from inflation for workers entitled to wage-loss benefits and shall report its findings to the Legislature not later than February 1, 1988.

(4) TEMPORARY PARTIAL DISABILITY.—

(a) In case of temporary partial disability, benefits shall be based on actual wage loss and shall not be subject to the minimum compensation rate set forth in s. 440.12(2). The compensation shall be equal to *85* ~~95~~ percent of the difference between 85 percent of the employee's average weekly wage and the salary, wages, and other remuneration the employee is able to earn, as compared weekly; however, the weekly wage-loss benefits shall not exceed an amount equal to $66\frac{2}{3}$ percent of the employee's average weekly wage at the time of injury. In order to simplify the comparison of the preinjury average weekly wage with the salary, wages, and other remuneration the employee is able to earn, the division may by rule provide for the modification of the weekly comparison so as to coincide as closely as possible with the injured worker's pay periods. The amount determined to be the salary, wages, and other remuneration the employee is able to earn shall in no case be less than the sum actually being earned by the employee, including earnings from sheltered employment.

(b) Whenever a temporary partial wage-loss benefit as set forth in paragraph (a) may be payable, the burden shall be on the employee to establish that any wage loss claimed is the result of the compensable injury. It shall also be the burden of the employee to show that his inability to obtain employment or to earn as much as he earned at the time of his industrial accident is due to physical limitation related to his accident and not because of economic conditions or the unavailability of employment or his own misconduct. In the event the employee voluntarily limits his income or fails to accept employment commensurate with his abilities, or is terminated from employment due to his own misconduct, it shall be presumed, in the absence of substantial evidence to the contrary, that the salary, wages, and other remuneration that the employee was able to earn for such period that the employee voluntarily limited his income or failed to accept employment commensurate with his abilities or was terminated from employment due to his own misconduct is the amount which would have been earned if the employee had not limited his income or failed to accept appropriate employment or had not been terminated from employment due to his own misconduct. The amount deemed shall be applied against the next *three* ~~two~~ biweekly payments. In the case of an employee who has not voluntarily limited his income or who has not failed to accept employment commensurate with his abilities or who was not terminated from employment due to his own misconduct, and who has made a good faith attempt to find employment but remains unemployed, it shall be presumed that the salary, wages, and other remuneration the employee is able to earn was zero for each week that the employee made a good faith attempt to find employment within his physical and vocational capabilities. However, beginning on the 13th week after the employee has received the first payment of a temporary partial wage-loss benefit, if the employee does not obtain and maintain employment, the employer may show that the salary, wages, and other remuneration the employee is able to earn is greater than zero by proving the existence of actual job openings within a reasonable geographical area which the employee is physically and vocationally capable of performing, in which case the amount the employee is able to earn may be deemed to be the amount the judge of compensation claims finds that the employee could earn in such jobs. The amount deemed shall be applied against the next two biweekly payments.

(c) Such benefits shall be paid during the continuance of such disability, not to exceed a period of *260 weeks* ~~5 years~~.

(5) SUBSEQUENT INJURY.—

(a) The fact that an employee has suffered previous disability, impairment, anomaly, or disease, or received compensation therefor, shall not preclude him from benefits for a subsequent *aggravation or acceleration of the preexisting condition* ~~injury~~ nor preclude benefits for death resulting therefrom, *except that no benefits shall be payable if the employee, at the time of entering into the employment of the employer by whom the benefits would otherwise be payable, falsely represents himself in writing as not having previously been disabled or compensated because of such previous disability, impairment, anomaly, or disease.* Compensation for temporary disability, medical benefits, and wage-loss benefits shall not be subject to apportionment.

(b) If a compensable permanent impairment, or any portion thereof, is a result of aggravation or acceleration of a preexisting condition, or is the result of merger with a preexisting impairment, an employee eligible

to receive impairment benefits under paragraph (3)(a) shall receive such benefits for the total impairment found to result, excluding the degree of impairment existing at the time of the subject accident or injury or which would have existed by the time of the impairment rating without the intervention of the compensable accident or injury. The degree of permanent impairment attributable to the accident or injury shall be compensated in accordance with paragraph (3)(a). As used in this paragraph, "merger" means the combining of a preexisting permanent impairment with a subsequent compensable permanent impairment which, when the effects of both are considered together, result in a permanent impairment rating which is greater than the sum of the two permanent impairment ratings when each impairment is considered individually.

(c) If an employee receiving wage-loss benefits suffers a subsequent injury causing temporary disability, both wage-loss benefits and temporary disability benefits shall be payable during the duration of temporary disability; however, the total benefits payable shall not exceed the maximum compensation rate in effect for temporary disability at the time of the subsequent injury. Any reduction in benefits due to such limit shall be applied first to the wage-loss benefits payable as a result of the prior injury.

(d) If an employee receiving wage-loss benefits suffers a subsequent injury causing an additional compensable wage loss, benefits for each wage loss shall be payable; however, the total wage-loss benefits payable shall not exceed the maximum compensation rate in effect for permanent disability at the time of the subsequent injury. Any reduction in wage-loss benefits due to such limitation shall be applied first to the benefits payable as a result of the prior injury.

(6) EMPLOYEE REFUSES EMPLOYMENT.—If an injured employee refuses employment suitable to the capacity thereof, offered to or procured therefor, such employee shall not be entitled to any compensation at any time during the continuance of such refusal unless at any time in the opinion of the judge of compensation claims such refusal is justifiable.

(7) EMPLOYEE LEAVES EMPLOYMENT.—If an injured employee, when receiving compensation for temporary partial disability, leaves the employment of the employer by whom he was employed at the time of the accident for which such compensation is being paid, he shall, upon securing employment elsewhere, give to such former employer an affidavit in writing containing the name of his new employer, the place of employment, and the amount of wages being received at such new employment; and, until he gives such affidavit, the compensation for temporary partial disability will cease. The employer by whom such employee was employed at the time of the accident for which such compensation is being paid may also at any time demand of such employee an additional affidavit in writing containing the name of his employer, the place of his employment, and the amount of wages he is receiving; and if the employee, upon such demand, fails or refuses to make and furnish such affidavit, his right to compensation for temporary partial disability shall cease until such affidavit is made and furnished.

(8) EMPLOYEE BECOMES INMATE OF INSTITUTION.—In case an employee becomes an inmate of a public institution, then no compensation shall be payable unless he has dependent upon him for support a person or persons defined as dependents elsewhere in this chapter, whose dependency shall be determined as if the employee were deceased and to whom compensation would be paid in case of death; and such compensation as is due such employee shall be paid such dependents during the time he remains such inmate.

(9) EMPLOYEE ELIGIBLE FOR BENEFITS UNDER THIS CHAPTER AND FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE ACT.—

(a) Weekly compensation benefits payable under this chapter for disability resulting from injuries to an employee who becomes eligible for benefits under 42 U.S.C. s. 423 shall be reduced to an amount whereby the sum of such compensation benefits payable under this chapter and such total benefits otherwise payable for such period to the employee and his dependents, had such employee not been entitled to benefits under this chapter, under 42 U.S.C. ss. 423 and 402, does not exceed 80 percent of the employee's average weekly wage. However, this provision shall not operate to reduce an injured worker's benefits under this chapter to a greater extent than such benefits would have otherwise been reduced under 42 U.S.C. s. 424(a). This reduction of compensation benefits is not applicable to any compensation benefits payable for any week subsequent to the week in which the injured worker reaches the age of 62 years.

(b) If the provisions of 42 U.S.C. s. 424(a) are amended to provide for a reduction or increase of the percentage of average current earnings that the sum of compensation benefits payable under this chapter and the benefits payable under 42 U.S.C. ss. 423 and 402 can equal, the amount of the reduction of benefits provided in this subsection shall be reduced or increased accordingly.

(c) No disability compensation benefits payable for any week, including those benefits provided by paragraph (1)(e), shall be reduced pursuant to this subsection until the Social Security Administration determines the amount otherwise payable to the employee under 42 U.S.C. ss. 423 and 402 and the employee has begun receiving such social security benefit payments. The employee shall, upon demand by the division, the employer, or the carrier, authorize the Social Security Administration to release disability information relating to him and authorize the Division of Unemployment Compensation to release unemployment compensation information relating to him, in accordance with rules to be promulgated by the division prescribing the procedure and manner for requesting the authorization and for compliance by the employee. Neither the division nor the employer or carrier shall make any payment of benefits for total disability or those additional benefits provided by paragraph (1)(e) for any period during which the employee willfully fails or refuses to authorize the release of information in the manner and within the time prescribed by such rules. The authority for release of disability information granted by an employee under this paragraph shall be effective for a period not to exceed 12 months, such authority to be renewable as the division may prescribe by rule.

(d) If compensation benefits are reduced pursuant to this subsection, the minimum compensation provisions of s. 440.12(2) do not apply.

(10) EMPLOYEE ELIGIBLE FOR BENEFITS UNDER THIS CHAPTER WHO HAS RECEIVED OR IS ENTITLED TO RECEIVE UNEMPLOYMENT COMPENSATION.—

(a) No compensation benefits shall be payable for temporary total disability or permanent total disability under this chapter for any week in which the injured employee has received, or is receiving, unemployment compensation benefits.

(b) If an employee is entitled to both wage-loss benefits pursuant to subsection (3), or temporary partial benefits pursuant to subsection (4), and unemployment compensation benefits, such unemployment compensation benefits shall be primary and the wage-loss benefits or temporary partial benefits shall be supplemental only, the sum of the two benefits not to exceed the amount of wage-loss benefits or temporary partial benefits which would otherwise be payable. For purposes of termination of wage-loss benefits pursuant to sub-subparagraph (3)(b)4.a., the term "payable" shall be construed to include payment of unemployment compensation benefits in lieu of income supplement benefits as provided in this subsection.

(11) FULL-PAY STATUS FOR CERTAIN LAW ENFORCEMENT OFFICERS.—Any law enforcement officer as defined in s. 943.10(1), (2), or (3) and employed only by a state agency who, while acting within the course of employment as provided by s. 440.091, is maliciously or intentionally injured and who thereby sustains a job-connected disability compensable under this chapter shall be carried in full-pay status rather than being required to use sick, annual, or other leave. Full-pay status shall be granted only after submission to the employing agency's head of a medical report which gives a current diagnosis of the employee's recovery and ability to return to work. In no case shall the employee's salary and workers' compensation benefits exceed the amount of the employee's regular salary requirements.

(12) EMPLOYEE ELIGIBLE FOR BENEFITS UNDER THIS CHAPTER AND PENSION DISABILITY BENEFITS PAYABLE BY A PUBLIC EMPLOYER.—Where any person receives compensation under this chapter by reason of the disability of an employee of the state or any political subdivision of the state, and such person is also entitled to receive any sum, by reason of the same disability, from any pension plan or other benefit fund with respect to which the same employer provides the majority of the current funding, nothing in this chapter shall be construed to prevent the reduction of pension benefits paid by said employer by the amount of workers' compensation payments paid by the employer. However, no such reduction may result in compensation benefits payable under this chapter and under the pen-

sion plan or other benefit fund which, in sum, total less than 100 percent of the money rate at which the service rendered by the employee was recompensed, excluding overtime, under the contract of hiring in force at the time of the employee's injury. Nothing in this subsection shall be construed to abrogate the terms of any contract of employment or the stated conditions of employment at the time of hiring.

Section 13. Paragraph (b) of subsection (1) of section 440.16, Florida Statutes, is amended to read:

440.16 Compensation for death.—

(1) If death results from the accident within 1 year thereafter or follows continuous disability and results from the accident within 5 years thereafter, the employer shall pay:

(b) Compensation, in addition to the above, in the following percentages of the average weekly wages to the following persons entitled thereto on account of dependency upon the deceased, and in the following order of preference, subject to the limitation provided in subparagraph 2., but such compensation shall be subject to the limits provided in s. 440.12(2), shall not exceed $100,000, and may be less than, but shall not exceed, for all dependents or persons entitled to compensation, 66⅔ percent of the average wage:

1. To the spouse, if there is no child, 50 percent of the average weekly wage, such compensation to cease upon the spouse's death.

2. To the spouse, if there is a child or children, the compensation payable under subparagraph 1. and, in addition, 16⅔ percent on account of the child or children. However, when the deceased is survived by a spouse and also a child or children, whether such child or children are the product of the union existing at the time of death or of a former marriage or marriages, the judge of compensation claims may provide for the payment of compensation in such manner as may appear to the judge of compensation claims just and proper and for the best interests of the respective parties and, in so doing, may provide for the entire compensation to be paid exclusively to the child or children; and, in the case of death of such spouse, 33⅓ percent for each child. *However, upon the surviving spouse's remarriage, the spouse shall be entitled to a lump-sum payment equal to 52 weeks of compensation at the rate of 50 percent of the average weekly wage, unless the $100,000 limit provided in this paragraph is exceeded, in which case the surviving spouse shall receive a lump-sum payment equal to the remaining available benefits in lieu of any further indemnity benefits. In no case shall a surviving spouse's acceptance of a lump-sum payment affect payment of death benefits to other dependents.*

3. To the child or children, if there is no spouse, 33⅓ percent for each child.

4. To the parents, 25 percent to each, such compensation to be paid during the continuance of dependency.

5. To the brothers, sisters, and grandchildren, 15 percent for each brother, sister, or grandchild.

(c) To the surviving spouse, payment of postsecondary student fees for instruction at any area vocational-technical center established under s. 230.63 for up to 1,800 classroom hours or payment of student fees at any community college established under part III of chapter 240 for up to 80 semester hours. The spouse of a deceased state employee shall be entitled to a full waiver of such fees as provided in ss. 230.645 and 240.345 in lieu of the payment of such fees. The benefits provided for in this paragraph shall be in addition to other benefits provided for in this section and shall terminate 7 years after the death of the deceased employee, or when the total payment in eligible compensation under paragraph (b) has been received. To qualify for the educational benefit under this paragraph, the spouse shall be required to meet and maintain the regular admission requirements of, and be registered at, such area vocational-technical center or community college, and make satisfactory academic progress as defined by the educational institution in which the student is enrolled.

Senator Brown moved the following amendment to Amendment 1 which was adopted:

Amendment 1AA—On page 67, line 3, after the period (.) insert:

(12) EMPLOYEE ELIGIBLE FOR BENEFITS UNDER THIS CHAPTER AND PENSION DISABILITY BENEFITS PAYABLE BY A PUBLIC EMPLOYER.—Where any person receives compensation under this chapter by reason of the disability of an employee of the state or any political subdivision of the state, and such person is also entitled to receive any sum, by reason of the same disability, from any pension plan or other benefit fund with respect to which the same employer provides the majority of the current funding, nothing in this chapter shall be construed to prevent the reduction of pension benefits paid by said employer by the amount of workers' compensation payments paid by the employer. However, no such reduction may result in compensation benefits payable under this chapter and under the pension plan or other benefit fund which, in sum, total less than 100 percent of the money rate at which the service rendered by the employee was recompensed, excluding overtime, under the contract of hiring in force at the time of the employee's injury. Nothing in this subsection shall be construed to abrogate the terms of any contract of employment or the stated conditions of employment at the time of hiring.

Senator Walker offered the following amendment to Amendment 1 which was moved by Senator Langley and adopted:

Amendment 1BB—On page 74, strike all of lines 1-15 and insert:

h. A description of the entitlement to increased wage-loss benefits in excess of that which is or has been voluntarily paid by the employer or carrier together with the name of any medical care provider who has diagnosed any increased impairment.

i. Any other benefit, penalty, attorney's fee, or allowance provided by law deemed due *at the time of filing of the claim* but not being furnished.

In addition, such claim must be accompanied by any document or other evidence that supports the claim in the possession of, or statement of the facts known to, the claimant and upon which the claimant intends to rely at a hearing on the merits or other proceeding; provided, this shall not restrict the claimant's ability to testify at a hearing on the merits or other proceeding or limit the admissibility of, or restrict the claimant's ability to rely upon, any document or other evidence not in the actual possession of the claimant at the time the claim is filed.

Senator Weinstein moved the following amendment to Amendment 1 which failed:

Amendment 1CC—On page 124, line 8, through page 126, line 8, strike all of said lines and renumber subsequent sections.

Senators Crawford, Jennings, Stuart and Weinstein offered the following amendment to Amendment 1 which was moved by Senator Jennings and adopted:

Amendment 1DD—On page 37, lines 30 and 31, and on page 38, lines 1-23, strike all of said lines and insert: injured persons. *No later than August 1, 1990, all hospitals shall submit to the division the price lists masters which were in effect on January 1, 1990. The division shall review a random sample of hospital charges received in order to determine the 250 most frequently incurred charges for treatment of injured employees pursuant to this chapter. The division shall prepare arrays of hospital charges from the price list masters for the 250 most frequently incurred charges and shall identify the values for the 50th percentile. The division shall submit the arrays to the 3-member panel no later than October 1, 1990. The 3-member panel shall review the arrays within 30 days of receipt and shall approve a schedule of maximum reimbursement allowances based on 80 percent of the 50th percentile which will be effective January 1, 1991. Effective January 1, 1991, if the usual and customary charge is equal to or less than 80 percent of the 50th percentile the reimbursement shall be at 80 percent of the 50th percentile or 80 percent of the usual and customary charges, whichever is less. If the usual and customary charge is greater than the amount represented by 80 percent of the 50th percentile, charges shall be reimbursed at 80 percent of the 50th percentile or 65 percent of the usual and customary charge, whichever is greater. Reimbursement of a compensable hospital charge not itemized in the schedule of maximum reimbursement allowances shall be at 65 percent of the hospital's usual and customary charge.*

Notwithstanding the above, compensable charges for teaching hospitals, as defined in s. 407.002(27), shall be reimbursed at 70 percent of their usual and customary charge. Until the 3-member panel approves a schedule of maximum reimbursement allowances all medically neces-

sary compensable hospital charges shall be reimbursed at 70 percent of their usual and customary charge. The division shall develop a data base of all 250 hospital charges contained in the schedule of maximum reimbursement. Beginning July 1, 1991, and on an annual basis thereafter, the division shall develop arrays of the 250 charges contained in the schedule of maximum reimbursement allowances from charge data entered into the division's data base for the previous year. The 3-member panel shall review the data arrays and may approve a schedule of maximum reimbursement allowances based on a maximum of 80 percent of the 50th percentile which shall become effective the subsequent January 1. The 3-member panel may develop two or more schedules of maximum reimbursement allowances based on groups of hospitals providing like services or geographical regions. However, the maximum reimbursement allowances contained in the schedule of maximum reimbursement allowances for each region or group shall not exceed 80 percent of the 50th percentile of that region or group. Actual reimbursement of charges shall be as otherwise provided in this section. In determining the schedule for hospitals after January 1, 1987, the panel shall approve and use charge data submitted by hospitals to the *division* ~~Health Care Cost Containment Board~~ as representative of charges for the treatment, care, and attendance in the state of injured persons. ~~Payment of a compensable charge to a hospital for~~

Senators Jennings, Langley, Stuart, Weinstein and D. Childers offered the following amendment to Amendment 1 which was moved by Senator Jennings and adopted:

Amendment 1EE—On page 171, line 4, through page 172, line 12, strike all of said lines and insert:

Section 47. (1) It is the intent of the Legislature that the cost of workers' compensation insurance be reduced to employers who are required to maintain such coverage. In view of the fact that, effective January 1, 1989, a 28.8 percent average premium increase was approved, and in view of the fact that, effective January 1, 1990, a 36.7 percent average premium increase was approved, each insurer or rating organization with subscribers writing workers' compensation insurance in this state shall submit a rate filing with the Department of Insurance on July 1, 1990, that shall be adjusted by the rating organization or insurer to reflect the cost savings resulting from the provisions of this act. The rate filing shall not reflect other factors, such as experience with benefit payments prior to July 1, 1990. The department shall review such rate filing and shall issue an order no later than September 1, 1990, which shall reflect the cost savings resulting from the provisions of this act and which shall state that the approved rate filing shall be effective September 1, 1990, and shall remain in effect until July 1, 1991. There shall be a presumption that the cost savings resulting from the provisions of this act shall result in a 33 percent decrease off the workers' compensation insurance rate that was effective January 1, 1990.

(2) Any insurer as defined in section 624.03, Florida Statutes, or commercial self-insurance fund as defined in section 624.462, Florida Statutes, which contends that implementation of the rate filing approved by the Department of Insurance required by this section is clearly inadequate or will jeopardize the solvency of the insurer or the fund shall make written application to the Department of Insurance on or before October 1, 1990, for permission to file a uniform percentage increase above the approved rate, along with data and information which it believes justified its contention. Such data shall reflect the cost savings resulting from the provisions of this act. The Department of Insurance shall rule on such application no later than January 1, 1991, and if approved, such application shall be effective until July 1, 1991. If the application is not approved by the Department of Insurance, such insurer or fund shall adhere to the approved rate. Any insurer or commercial self-insurance fund electing to proceed under this subsection shall notify its insureds or members that it intends to contest the order entered by the Department of Insurance pertaining to the rate filing of July 1, 1990.

(3) Any self-insurer as defined in section 440.02, Florida Statutes, which contends that implementation of the rate filing approved by the Department of Insurance required by this section is clearly inadequate or will jeopardize that solvency of the self-insurer shall make written application to the Department of Labor and Employment Security on or before October 1, 1990, for permission to file a uniform percentage increase above the approved rate, along with data and information which it believes justifies its contention. Such data shall reflect the cost savings resulting from the provisions of this act. The Department of Labor and Employment Security shall rule on such application no later than January 1, 1991, and if approved, such application shall be effective until July 1, 1991. If the application is not approved by the Department of Labor and Employment Security, such self-insurer shall adhere to the approved rate. Any self-insurer electing to proceed under this subsection shall notify its members that it intends to contest the order entered by the Department of Insurance pertaining to the rate filing of July 1, 1990.

Senator Langley moved the following amendment to Amendment 1 which was adopted:

Amendment 1FF—On page 66, line 23, strike "~~and employed only by a state agency~~"

Senator Gardner moved the following amendment to Amendment 1 which was adopted:

Amendment 1GG—On page 146, lines 27-30, and on page 147, lines 1 and 2, strike all of said lines and insert: the division.

Senator Meek moved the following amendment to Amendment 1 which was adopted:

Amendment 1HH—On page 86, strike all of lines 11 and 12 and insert: years after the date a hearing is held to determine the value of the attorney's fee claimed.

Amendment 1 as amended was adopted.

Senator Jennings moved the following amendment:

Amendment 2—In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to workers' compensation; amending s. 20.13, F.S.; establishing a Bureau of Workers' Compensation Insurance Fraud within the Division of Insurance Fraud of the Department of Insurance; providing authority to adopt rules; amending s. 20.171, F.S.; creating a Division of Safety within the Department of Labor and Employment Security; creating within the Department of Labor and Employment Security an Industrial Relations Commission; providing membership and terms; providing for appointment of associate commissioners; providing for salaries; vesting in the commission all powers, duties, and responsibilities relating to review of orders of judges of compensation claims in workers' compensation proceedings; providing for review by appeal of final orders of judges of compensation claims; providing for transfer of workers' compensation actions pending before the First District Court of Appeal; providing for panels and en banc hearings; providing that the commission is not subject to control by the department; providing for expenditures; specifying powers of presiding commissioner; providing for a clerk; providing for a seal; providing for destruction of obsolete records; providing per diem and travel expenses; providing for rules of procedure; creating s. 440.015, F.S.; providing legislative intent with respect to the Workers' Compensation Law; amending s. 440.02, F.S.; redefining "accident," "carrier," "employee," "employer," "employment," and "wages"; defining "individual self-insurer," "domestic individual self-insurer," "foreign individual self-insurer," "department," "insolvent member," "insolvency," and "independent medical exam"; creating s. 440.055, F.S.; requiring filing of affidavits; amending s. 440.09, F.S.; providing presumptions with respect to drug or alcohol use by injured employees; providing for reduction of benefits for failure to use safety equipment or follow safety rules; providing for drug testing; providing presumptions applicable upon the refusal to submit to testing; creating s. 440.092, F.S.; providing special requirements for compensability relating to deviation from employment, travel, social activities, intervening accidents, and going to or coming from work; amending s. 440.10, F.S.; providing subrogation for contractors under certain conditions; providing penalties for false, fraudulent, or misleading statements by subcontractors; providing requirements and procedures for obtaining a construction-related permit; amending s. 440.13, F.S.; providing a definition for "medicine"; providing for prior authorization for health care provider referrals; increasing the medical reporting period; prohibiting referrals to health care providers by persons having financial or ownership interests; providing exceptions; requiring disclosures; requiring depositions; providing limitations on witness fees; limiting the provision of attendant or custodial care; providing for medical evaluation by an independent health care provider; requiring compliance with financial responsibility; providing for prescription medication reimbursement; revising the method of determining hospital reimbursement; repealing the advisory committee to the 3-member panel; creating s. 440.135, F.S.; providing for pilot programs for medical, hospital, and remedial care; amending s. 440.15, F.S.; limiting availability of permanent total disability benefits; restricting entitlement to supplemental benefits; revising entitlement to temporary total disability benefits; requiring the establishment of a uniform disabil-

ity rating guide; revising the method of calculating wage-loss benefits; revising the eligibility period of incarcerated employees for wage-loss benefits; revising the method of determining entitlement to wage-loss benefits; providing for termination of wage-loss benefits under certain conditions; revising the method of calculating temporary partial disability benefits; limiting entitlement to benefits for subsequent injuries under certain conditions and revising method of calculating benefits for subsequent injuries; amending s. 440.16, F.S.; terminating spouse benefits upon remarriage; amending s. 440.185, F.S.; requiring certain information and assistance to be furnished to injured employees; amending s. 440.19, F.S.; revising procedures for filing a claim for benefits; providing legislative intent; prohibiting award of attorney's fees or penalties in specified circumstances; amending s. 440.25, F.S.; revising procedures for mediation conferences; providing conforming language; repealing s. 440.26, F.S., which section provides presumptions with respect to the validity of claims; amending s. 440.271, F.S.; providing for appeal to the Industrial Relations Commission; providing for notice to and intervention by the division in such proceedings; creating s. 440.272, F.S.; providing procedures for review of orders of the Industrial Relations Commission; amending s. 440.34, F.S.; limiting attorney's fees; restricting the contents of a retainer agreement; amending s. 440.37, F.S.; providing penalties for fraudulent representations; amending s. 440.38, F.S.; providing for another method for securing workers' compensation coverage; providing for security deposits; providing penalties against self-insurance funds for failure to correct certain errors contained in an audit; creating s. 440.381, F.S.; prescribing insurance application forms; establishing minimum requirements for payroll audits and classifications; restricting accessibility to insurance coverage; providing penalties; providing indemnification of the carrier by the employer for certain misrepresentations; amending s. 440.385, F.S.; revising the obligation of the Florida Self-Insurance Guaranty Fund to certain insolvent members; deleting obsolete language; providing restrictions on withdrawing members; creating s. 440.386, F.S.; providing procedures for delinquency, conservation, and liquidation proceedings of self-insurers; providing penalties for failure to maintain certain records; amending s. 440.39, F.S.; providing recovery offsets for migrant workers; amending s. 440.43, F.S.; providing penalty for failure to secure insurance coverage; repealing s. 440.44(10), F.S.; eliminating the oversight board; amending s. 440.45, F.S.; providing conforming language; providing for appointment by statewide nominating commission; amending s. 440.49, F.S.; extending ability to make request for training and education benefits to carriers; providing limitation period for filing certain claims against the Special Disability Trust Fund; eliminating voluntary rehabilitation or training and education services; adding obesity; amending s. 440.52, F.S.; providing penalties for insurance carriers for failure to correct certain errors contained in an audit; amending s. 440.56, F.S.; increasing penalties; providing rulemaking authority; creating s. 440.572, F.S.; authorizing certain self-insurers to assume the liabilities of their contractors and subcontractors; amending s. 440.59, F.S.; requiring reports; amending s. 489.114, F.S.; providing procedures for the Department of Professional Regulation in the event of cancellation of workers' compensation coverage of a contractor; amending s. 489.510, F.S.; providing procedures for the Department of Professional Regulation in the event of cancellation of workers' compensation coverage of an electrical contractor; amending s. 626.611, F.S.; providing grounds for imposing sanctions against insurance agents; amending s. 626.869, F.S.; revising requirements for classroom instruction for workers' compensation insurance adjusters; providing for drug testing; allowing for rate reductions for employers that implement specified drug testing programs; providing rulemaking authority; repealing s. 43, ch. 89-289, Laws of Florida; abrogating repeals scheduled pursuant to the Regulatory Sunset Act for specified provisions of ch. 440, F.S.; providing legislative intent regarding funding of the Industrial Relations Commission; providing appropriations; requiring rate reductions; requiring refunds; providing presumptions; repealing s. 38, ch. 89-289, Laws of Florida; abolishing the Joint Select Committee on Workers' Compensation; providing appropriations; providing that in the event specified provisions are held unconstitutional the act is void; providing an effective date.

WHEREAS, the Legislature finds that there is a financial crisis in the workers' compensation insurance industry, causing severe economic problems for Florida's business community, and

WHEREAS, the Legislature finds that businesses are faced with dramatic increases in the cost of workers' compensation insurance coverage, and

WHEREAS, because the cost of compensation coverage imposes hardships on the ability of businesses to pay premiums in advance, it is the sense of the Legislature that in order to foster continuing economic viability, the availability of paying workers' compensation premiums incrementally should exist without compromising coverage continuation, and

WHEREAS, it is the sense of the Legislature that if the present crisis is not abated, many businesses will cease operating and numerous jobs will be lost in the State of Florida, and

WHEREAS, it is the sense of the Legislature that the costs and risks of workers' compensation coverage have placed unfair burdens on the ability of small businesses to obtain coverage in the voluntary market, and

WHEREAS, the Legislature finds that coverage placed through the voluntary market should be encouraged, and that small businesses should not be restricted from obtaining compensation coverage due to small premium volume, and

WHEREAS, the absence of adequate and correct premium calculation and collection by the insurers in the State of Florida has contributed to Florida's workers' compensation crisis, and

WHEREAS, the employers of Florida are concerned with the increased cost of insurance and the need for a review of the workers' compensation laws, and

WHEREAS, the Legislature believes it is necessary to avoid the workers' compensation crisis, to maintain economic prosperity, and to protect the employee's right to benefits if injured on the job, and

WHEREAS, the Legislature finds that, in general, the cost of workers' compensation insurance is excessive and injurious to the people of Florida and must be reduced, and

WHEREAS, the magnitude of this compelling social problem demands immediate and dramatic legislative action, NOW, THEREFORE,

Senator Jennings moved the following amendments to Amendment 2 which were adopted:

Amendment 2A—In title, on page 7, strike line 9 and insert: rate reductions; requiring certain rate filings; providing

Amendment 2B—In title, on page 3, line 25, after the first semicolon (;) insert: providing for pilot programs for 24-hour health and disability insurance;

Amendment 2C—In title, on page 7, between lines 29 and 30, insert:

WHEREAS, the Legislature finds that there is an overpowering public necessity for reform of the current workers' compensation system in order to protect the rights of employees to benefit for on-the-job injuries, and

WHEREAS, the Legislature finds that the reforms contained in this act are the only alternative available that will meet the public necessity of maintaining a workers' compensation system which provides adequate coverage to injured employees at a cost that is affordable to employers, and

WHEREAS, a report to the Joint Select Committee on Workers' Compensation of the Florida Legislature revealed that the rates for workers' compensation insurance are 54 percent higher than the nationwide average, 75 percent higher than the average of all states in the southeastern United States, and 60 percent higher than the average of those states contiguous to Florida, and

WHEREAS, such report also indicated that Florida has experienced one of the highest rates of increase in premiums for workers' compensation insurance anywhere in the United States during the last 5 years, and

WHEREAS, such report also indicated that the present level of medical and indemnity benefits under the Florida Workers' Compensation Law is 35 percent higher than the nationwide average level of such benefits, 50 percent higher than the southeastern United States average level of such benefits, and 72 percent higher than the average level of such benefits in states contiguous to Florida, and

WHEREAS, the reductions in benefits provided in this act are necessary to ensure rates that allow employers to continue to comply with the statutory requirement of providing workers' compensation coverage, but are nonetheless calculated to provide an adequate level of compensation

to injured employees, and are in fact more generous than the benefits provided under the laws of several other states, and

Senator D. Childers moved the following amendments to Amendment 2 which were adopted:

Amendment 2D—On page 7, line 15, after the semicolon (;) insert: limiting authorized insurer rates; providing a method for insurers to charge rates in excess of the limitation; providing for retroactive application;

Amendment 2E—In title, on page 5, line 16, after the first semicolon (;) insert: restricting refusals of workers' compensation coverage;

Senator Jennings moved the following amendments to Amendment 2 which were adopted:

Amendment 2F—In title, on page 4, line 19, after the semicolon (;) insert: prescribing duties of the Divison of Workers' Compensation with respect to facilitating early resolution of conflicts in workers' compensation cases;

Amendment 2G—In title, on page 7, line 15, after the semicolon (;) insert: providing for severability;

Amendment 2H—In title, on page 4, line 31, after the second semicolon (;) insert: providing for costs and attorney's fees in proceedings before the Industrial Relations Commission;

Amendment 2 as amended was adopted.

On motion by Senator Jennings, by two-thirds vote CS for HB 3809 and CS for HB's 2671, 1099, 1499, 1611, 2265, 2871, 2957, 3007 and 3135 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Deratany	Johnson	Scott
Bankhead	Diaz-Balart	Kirkpatrick	Souto
Beard	Dudley	Kiser	Stuart
Brown	Forman	Langley	Thomas
Bruner	Gardner	Malchon	Thurman
Casas	Girardeau	Margolis	Walker
Childers, D.	Gordon	McPherson	Weinstein
Childers, W. D.	Grant	Meek	Weinstock
Crenshaw	Grizzle	Myers	Woodson-Howard
Davis	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Peterson

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Margolis, by two-thirds vote SB 978, CS for SB 1004, CS for SB 1622, CS for SB 1640, CS for SB 1786, SB 1938, CS for SB 2160 and CS for SB 3194 were withdrawn from the Committee on Appropriations.

On motions by Senator Margolis, by two-thirds vote SB 1556 and CS for SB 2746 were withdrawn from Subcommittee B of the Committee on Appropriations and the Committee on Appropriations.

On motions by Senator Margolis, by two-thirds vote SB 1118 and CS for SB 1558 were withdrawn from Subcommittee C of the Committee on Appropriations and the Committee on Appropriations.

Motions

On motion by Senator McPherson, the rules were waived and the Committee on Natural Resources and Conservation was granted permission to meet immediately upon recess this day.

On motion by Senator Scott, the rules were waived and the Committee on Natural Resources and Conservation was granted permission to consider SB 3178 this day.

RECESS

On motion by Senator Scott, the Senate recessed at 12:42 p.m. to reconvene at 2:00 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 2:27 p.m. A quorum present—30:

Mr. President	Crenshaw	Johnson	Thomas
Bankhead	Deratany	Kiser	Thurman
Beard	Diaz-Balart	Malchon	Walker
Brown	Dudley	Meek	Weinstein
Bruner	Forman	Peterson	Weinstock
Casas	Gardner	Plummer	Woodson-Howard
Childers, D.	Gordon	Scott	
Childers, W. D.	Jennings	Souto	

Motion

On motions by Senator Scott, by two-thirds vote CS for SB 1316 was withdrawn from the Committees on Finance, Taxation and Claims; and Appropriations; and by two-thirds vote placed on the special order calendar to be considered at 3:30 p.m. this day.

SPECIAL ORDER, continued

Senator W. D. Childers presiding

SB 1516—A bill to be entitled An act relating to law enforcement officers; providing an appropriation to provide a competitive pay adjustment for career service law enforcement employees of the Florida Department of Law Enforcement; providing for adjustments in pay plans to conform; providing an effective date.

—was read the second time by title.

The Committee on Personnel, Retirement and Collective Bargaining recommended the following amendments which were moved by Senator Walker and adopted:

Amendment 1—On page 1, line 15, before "career" insert: certified

Amendment 2—On page 1, lines 25 and 26, following "Florida" strike "Department of Law Enforcement" and insert: Department of Administration

On motion by Senator Walker, by two-thirds vote SB 1516 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—28

Bankhead	Deratany	Grant	Peterson
Beard	Diaz-Balart	Jennings	Plummer
Brown	Dudley	Johnson	Souto
Bruner	Forman	Kiser	Stuart
Casas	Gardner	Langley	Thomas
Childers, W. D.	Girardeau	Malchon	Thurman
Crenshaw	Gordon	Myers	Walker

Nays—None

Vote after roll call:

Yea—D. Childers, Kirkpatrick, Scott, Weinstock, Woodson-Howard

On motion by Senator Walker, the rules were waived and **SB 1516** was ordered immediately certified to the House.

On motion by Senator Forman, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 272 with amendments and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 272—A bill to be entitled An act relating to disposition of unclaimed property; creating s. 717.1035, F.S.; providing criteria for the presumption of abandonment for certain intangible property; amending s. 717.106, F.S.; providing for notice to beneficiaries under certain conditions; amending s. 717.122, F.S.; allowing the department to sell securities without incurring liability to the owner; amending s. 717.124, F.S.; deleting the reference to the department's liability for the sale of securities; providing an effective date.

House Amendment 1—On page 3, line 31, insert:

Section 5. Subsection (1) of section 705.105, Florida Statutes, is amended to read:

705.105 Procedure for unclaimed evidence.—

(1) Title to unclaimed evidence *or tangible personal property seized pursuant to a lawful investigation* in the custody of the court or clerk of the court from a criminal proceeding or seized as evidence by and in the custody of a law enforcement agency shall vest permanently in the law enforcement agency 60 days after the conclusion of the proceeding.

(a) If the property is of appreciable value, the agency may elect to:

1. Retain the property for the agency's own use;

2. Transfer the property to another unit of state or local government;

3. Donate the property to a charitable organization;

4. Sell the property at public sale, pursuant to the provisions of s. 705.103.

(b) If the property is not of appreciable value, the law enforcement agency may elect to destroy it.

(Renumber subsequent sections.)

House Amendment 2—On page 1, line 13, after the semicolon insert: amending s. 705.105, F.S.; revising language with respect to the procedure for unclaimed evidence;

Senator Forman moved the following amendment which was adopted:

Senate Amendment 1 to House Amendment 1—On page 1, strike all of lines 15 and 16 and insert:

(1) Title to unclaimed evidence *or unclaimed tangible personal property lawfully seized pursuant to a lawful investigation* in the

On motions by Senator Forman, the Senate concurred in House Amendment 1 as amended and the House was requested to concur in the Senate amendment to the House amendment, and concurred in House Amendment 2.

CS for SB 272 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—27

Bankhead	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kiser	Stuart
Brown	Forman	Langley	Thomas
Bruner	Gardner	Malchon	Thurman
Casas	Girardeau	Myers	Walker
Childers, W. D.	Gordon	Peterson	Woodson-Howard
Deratany	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—D. Childers, Grant, Kirkpatrick, Scott

MATTERS ON RECONSIDERATION, continued

The Senate resumed consideration of—

CS for SB 1606—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.021, F.S.; defining the term "disability in line of duty"; amending s. 121.031, F.S.; exempting lists of retirees' names and addresses from the provisions of s. 119.07(1), F.S., for commercial purposes; amending s. 121.051, F.S.; providing for participation by employees of Regional Coordinating Councils; amending s. 121.055, F.S.; requiring certain positions within the State Community College System and the State Board of Community Colleges to participate in the Senior Management Service Class of the Florida Retirement System; requiring senior managers of the State University System and the State Board of Administration to participate in the Senior Management Service Class of the Florida Retirement System; amending s. 121.091, F.S.; removing erroneous language; allowing judges to select a retirement benefit option when required to retire under disability by Supreme Court order; requiring that the spouse of a member be notified of and acknowledge member's election of Option 1 or Option 2 benefits; providing for the designation of a contingent beneficiary by the member for any Option 2 benefits remaining upon the death of the primary beneficiary; conforming reemployment provisions for the Florida School for the Deaf and the Blind to similar provisions for other educational institutions; amending s. 121.125, F.S.; requiring employers to pay retirement contributions for Workers' Compensation credit received by a member; amending s. 121.35, F.S.; making university presidents and the Chancellor eligible to participate in the Optional Retirement Program; directing the Department of Insurance to conduct an actuarial study; providing an effective date.

—which was reconsidered this day.

Amendments 1, 2 and 3 failed.

On motion by Senator Bruner, by two-thirds vote CS for SB 1606 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Bankhead	Diaz-Balart	Johnson	Stuart
Beard	Dudley	Kiser	Thomas
Brown	Forman	Langley	Thurman
Bruner	Gardner	Malchon	Walker
Casas	Girardeau	Myers	Weinstock
Childers, W. D.	Gordon	Peterson	Woodson-Howard
Crenshaw	Grant	Plummer	
Davis	Grizzle	Scott	
Deratany	Jennings	Souto	

Nays—None

Vote after roll call:

Yea—D. Childers, Kirkpatrick

SPECIAL ORDER, continued

SB 1374—A bill to be entitled An act relating to the African and Afro-Caribbean Scholarship Trust Fund; amending s. 240.4145, F.S.; increasing the amount per year per student of each scholarship provided from the trust fund; providing an effective date.

—was read the second time by title. On motion by Senator Girardeau, by two-thirds vote SB 1374 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26

Beard	Davis	Grizzle	Scott
Brown	Diaz-Balart	Jennings	Souto
Bruner	Forman	Johnson	Thomas
Casas	Gardner	Margolis	Thurman
Childers, D.	Girardeau	Myers	Walker
Childers, W. D.	Gordon	Peterson	
Crenshaw	Grant	Plummer	

Nays—None

Vote after roll call:

Yea—Dudley, Kirkpatrick, Malchon, Woodson-Howard

On motion by Senator Girardeau, the rules were waived and **SB 1374** was ordered immediately certified to the House.

CS for SB 1802—A bill to be entitled An act relating to drivers' licenses; amending s. 322.055, F.S.; providing for revocation or suspension of, or delay of eligibility for, drivers' licenses of persons convicted of or adjudicated delinquent for certain offenses involving controlled substances; providing for substance abuse treatment in certain circumstances; authorizing the issuance of a limited driver's license in certain circumstances; providing an effective date.

—was read the second time by title.

Senator Bankhead moved the following amendments which were adopted:

Amendment 1—On page 4, strike line 9 and insert:

Section 2. Section 322.051, Florida Statutes, is amended to read:

322.051 Identification cards ~~for persons not licensed~~.—

(1) Any person 12 years of age or older ~~who does not have a valid Florida driver's license~~ may be issued an identification card by the department upon completion of an application and payment of an application fee. The application shall include the full name (first, middle or maiden, and last), sex, race, residence address, proof of birth as provided in s. 232.03, and other data the department may require. Applications for identification cards shall be signed and verified by the applicant before a person authorized to administer oaths. The fee for an identification card shall be $3, including payment for the color photograph of the applicant.

(2) Every identification card shall expire, unless canceled earlier, on the fourth birthday of the applicant following the date of original issue. *However, if an individual is 60 years of age or older, and has an identification card issued under this section, the card shall not expire unless done so by cancellation by the department or by the death of the cardholder.* Renewal of any identification card shall be made for a term which shall expire on the fourth birthday of the applicant following expiration of the identification card renewed, unless surrendered earlier. Any application for renewal received later than 90 days after expiration of the identification card shall be considered the same as an application for an original identification card. The renewal fee for an identification card shall be $3. The department shall, at the end of 4 years and 6 months after the issuance or renewal of an identification card, destroy any record of the card if it has expired and has not been renewed, *unless the cardholder is 60 years of age or older.*

(3) In the event an identification card issued under this section is lost, destroyed, or mutilated or a new name is acquired, the person to whom it was issued may obtain a duplicate upon furnishing satisfactory proof of such fact to the department and upon payment of a fee of $2.50 for such duplicate, which shall include payment for the color photograph of the applicant. Any person who loses an identification card and who, after obtaining a duplicate, finds the original card shall immediately surrender the original card to the department. The same documentary evidence shall be furnished for a duplicate as for an original identification card.

~~(4) Upon the issuance of a Florida driver's license, any identification card issued hereunder shall be surrendered by the licensee to the department. There shall be no refund of any fees paid for the issuance of such identification card.~~

(4)~~(5)~~ When used with reference to identification cards, "cancellation" means that an identification card is terminated without prejudice and must be surrendered. Cancellation of the card may be made when a card has been issued through error or when voluntarily surrendered to the department.

(5)~~(6)~~ No public entity shall be liable for any loss or injury resulting directly or indirectly from false or inaccurate information contained in identification cards provided for in this section.

(6)~~(7)~~ It is unlawful for any person:

(a) To display, cause or permit to be displayed, or have in his possession any fictitious, fraudulently altered, or fraudulently obtained identification card.

(b) To lend his identification card to any other person or knowingly permit the use thereof by another.

(c) To display or represent any identification card not issued to him as being his card.

(d) To permit any unlawful use of an identification card issued to him.

(e) To do any act forbidden, or fail to perform any act required, by this section.

(f) To photograph, photostat, duplicate, or in any way reproduce any identification card or facsimile thereof in such a manner that it could be mistaken for a valid identification card, or to display or have in his possession any such photograph, photostat, duplicate, reproduction, or facsimile unless authorized by the provisions of this section.

Section 3. Effective April 1, 1991, subsection (1) of section 322.051, Florida Statutes, as amended by chapter 89-282, Laws of Florida, is amended to read:

322.051 Identification cards ~~for persons not licensed.~~—

(1) Any person 12 years of age or older ~~who does not have a valid Florida driver's license~~ may be issued an identification card by the department upon completion of an application and payment of an application fee. The application shall include the full name (first, middle or maiden, and last), sex, race, residence address, proof of birth as provided in s. 232.03, and other data the department may require. Applications for identification cards shall be signed and verified by the applicant before a person authorized to administer oaths. The fee for an identification card shall be $3, including payment for the color photograph of the applicant.

Section 4. Except as otherwise provided herein, this act shall take effect October 1, 1990.

Amendment 2—In title, on page 1, strike line 11 and insert: circumstances; amending s. 322.051, F.S.; authorizing the department to issue identification cards without regard to whether the applicant is a licensed driver; providing that, with respect to certain cardholders, such cards expire only upon the death of the holder or cancellation by the department; providing effective dates.

On motion by Senator Crenshaw, by two-thirds vote CS for SB 1802 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29

Bankhead	Davis	Jennings	Souto
Beard	Deratany	Johnson	Thomas
Brown	Dudley	Kiser	Thurman
Bruner	Gardner	Malchon	Walker
Casas	Girardeau	Margolis	Woodson-Howard
Childers, D.	Gordon	Myers	
Childers, W. D.	Grant	Peterson	
Crenshaw	Grizzle	Scott	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Plummer

On motion by Senator Crenshaw, the rules were waived and **CS for SB 1802** was ordered immediately certified to the House.

On motions by Senator Walker, by two-thirds vote—

HB 3671—A bill to be entitled An act relating to juveniles; amending s. 39.402, F.S.; deleting the authority of the chief judge of the circuit court to designate a member of The Florida Bar to hold detention hearings in dependency cases when the county court judge is not an attorney; providing an effective date.

—a companion measure, was substituted for SB 2044 and by two-thirds vote read the second time by title. On motion by Senator Walker, by two-thirds vote HB 3671 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Bankhead	Deratany	Johnson	Souto
Beard	Dudley	Kiser	Thomas
Brown	Gardner	Malchon	Thurman
Bruner	Girardeau	Margolis	Walker
Casas	Gordon	Myers	Woodson-Howard
Childers, D.	Grant	Peterson	
Childers, W. D.	Grizzle	Plummer	
Crenshaw	Jennings	Scott	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

SB 3054—A bill to be entitled An act relating to public retirement systems; amending s. 112.66, F.S.; providing that each retirement system or plan's written summary plan description shall be published biennially rather than annually; providing a timetable for printing; listing information which should be contained in each plan description; eliminating sex

as a method for actuarially adjusting benefits; providing legislative intent; providing an effective date.

—was read the second time by title. On motion by Senator Bruner, by two-thirds vote SB 3054 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Bankhead	Crenshaw	Grant	Myers
Beard	Davis	Grizzle	Peterson
Brown	Deratany	Jennings	Souto
Bruner	Dudley	Johnson	Thomas
Casas	Gardner	Kiser	Thurman
Childers, D.	Girardeau	Malchon	Walker
Childers, W. D.	Gordon	Margolis	Woodson-Howard

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Plummer

CS for SB 3056—A bill to be entitled An act relating to the Florida Retirement System; amending s. 112.363, F.S.; modifying retirees' health insurance subsidy amounts receivable; amending ss. 121.021, 121.051, 121.053, 121.091, F.S.; correcting cross-references, conforming provisions, and removing obsolete language; amending s. 121.052, F.S.; establishing the Elected State and County Officers' Class, formerly the Elected State Officers' Class; providing membership; providing for participation and withdrawal, generally; providing for participation where a term of office is shortened under specified circumstances; providing for upgrading of prior service within the purview of the class; providing for purchase of retirement credit; providing restrictions for dual employment; providing required retirement contribution rates; providing for social security withholding; providing for modified retiree health insurance subsidy contribution; specifying normal retirement date and vesting period; providing for computation of average final compensation; providing for accrual of retirement credit; providing for retention of credit; providing for benefits; providing special provisions relative to death benefits; providing for cost-of-living adjustment and purchase of credit for military service; providing for social security coverage; providing for rules; amending ss. 121.055, 121.071, F.S.; modifying contribution rates as required pursuant to actuarial valuation of the Florida Retirement System and modifying provisions related to health insurance subsidy contribution rates; repealing ss. 121.112, 121.1121, 121.1124, 121.113, F.S., relating to participation in the class by certain elected officers whose terms were shortened and participation by spouses of deceased elected officials (the substance of which provisions are transferred hereby to s. 121.052(4) and (12)(c), F.S.; providing legislative intent with respect to contribution rates; providing an effective date.

—was read the second time by title. On motion by Senator Bruner, by two-thirds vote CS for SB 3056 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Bankhead	Davis	Grizzle	Souto
Brown	Deratany	Jennings	Stuart
Bruner	Dudley	Johnson	Thomas
Casas	Gardner	Kiser	Thurman
Childers, D.	Girardeau	Malchon	Walker
Childers, W. D.	Gordon	Plummer	Woodson-Howard
Crenshaw	Grant	Scott	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

SB 78—A bill to be entitled An act relating to weapons and firearms; amending s. 790.06, F.S., relating to license to carry a concealed weapon; requiring that photographic identification be submitted and placed on the license; providing an effective date.

—was read the second time by title.

The Committee on Judiciary-Criminal recommended the following amendment which was moved by Senator Dudley and adopted:

Amendment 1—On page 2, line 26, strike "*A current fullface photographic identification*" and insert: *A clear, front view, fullface color photograph of the applicant taken within the preceding 30 days, in which the head, including hair, measures seven-eighths of an inch wide and one and one-eighth inches high*

On motion by Senator Dudley, by two-thirds vote SB 78 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—28

Bankhead	Davis	Jennings	Souto
Beard	Dudley	Johnson	Stuart
Brown	Gardner	Malchon	Thomas
Casas	Girardeau	Margolis	Thurman
Childers, D.	Gordon	Myers	Walker
Childers, W. D.	Grant	Peterson	Weinstein
Crenshaw	Grizzle	Plummer	Woodson-Howard

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Scott

CS for SB 30—A bill to be entitled An act relating to inland navigation districts; repealing s. 374.97, F.S., relating to participation in the Tennessee-Tombigbee Waterway Development Authority; saving from Sundown repeal chapters 12026 and 23770, Laws of Florida, as amended, relating to the Florida Inland Navigation District and the West Coast Inland Navigation District; providing for future review and repeal; providing an effective date.

—was read the second time by title.

Senators Johnson and Dudley offered the following amendment which was moved by Senator Johnson and adopted:

Amendment 1—On page 1, strike all of lines 21-23 and insert:

Section 2. Chapter 12026, Laws of Florida, as amended, is repealed on October 1, 1991, and shall be reviewed by the Legislature pursuant to s. 11.611, Florida Statutes. Chapter 23770, Laws of Florida, as amended, is repealed on October 1, 2000, and shall be reviewed by the Legislature pursuant to s. 11.611, Florida Statutes.

Senator Bankhead moved the following amendment which was adopted:

Amendment 2—On page 1, between lines 25 and 26, insert:

Section 4. The island in the Matanzas Bay in St. Johns County located at latitude 29°54'12" north, longitude 81°18'30" west (located in Section 8, Township 7 South, Range 30 East) that has accumulated by accretion over the years is designated Bahia Cay.

(Renumber subsequent section.)

Senator Bankhead offered the following amendment which was moved by Senator Johnson and adopted:

Amendment 3—In title, on page 1, line 10, after the semicolon (;) insert: designating an island in St. Johns County as Bahia Cay;

On motion by Senator Johnson, by two-thirds vote CS for SB 30 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—30

Bankhead	Davis	Grizzle	Stuart
Beard	Deratany	Jennings	Thomas
Brown	Diaz-Balart	Johnson	Thurman
Bruner	Dudley	Malchon	Walker
Casas	Gardner	Myers	Weinstein
Childers, D.	Girardeau	Peterson	Woodson-Howard
Childers, W. D.	Gordon	Plummer	
Crenshaw	Grant	Souto	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, McPherson, Scott

On motions by Senator Peterson, by two-thirds vote CS for HB 1553 was withdrawn from the Committees on Higher Education, Agriculture and Appropriations.

On motion by Senator Peterson—

CS for HB 1553—A bill to be entitled An act relating to the University of Florida Institute of Food and Agricultural Sciences; providing for the Board of Regents to sell, trade, exchange, or otherwise dispose of certain state agricultural research and education property and use the proceeds of such sale or disposition to obtain replacement property; providing for proceeds to be deposited into a specified trust fund; authorizing the Board of Regents to purchase certain property for the relocation or construction of new agricultural research and education facilities; providing for the uses of such funds; specifying procedures for planning and budgeting construction projects; providing an effective date.

—a companion measure, was substituted for CS for SB 304 and read the second time by title. On motion by Senator Peterson, by two-thirds vote CS for HB 1553 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Bankhead	Diaz-Balart	Johnson	Stuart
Beard	Dudley	Kiser	Thomas
Brown	Gardner	Malchon	Thurman
Casas	Girardeau	Margolis	Walker
Childers, D.	Gordon	Myers	Weinstein
Childers, W. D.	Grant	Peterson	Woodson-Howard
Crenshaw	Grizzle	Plummer	
Deratany	Jennings	Souto	

Nays—None

Vote after roll call:

Yea—Davis, Kirkpatrick, Scott

SB 1028—A bill to be entitled An act relating to health care cost containment; amending s. 407.002; revising the formula for calculating the maximum allowable rate of increase in a hospital's gross charges and other operating revenue; providing an effective date.

—was read the second time by title. On motion by Senator Crenshaw, by two-thirds vote SB 1028 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Bankhead	Deratany	Jennings	Scott
Beard	Diaz-Balart	Johnson	Souto
Brown	Dudley	Kiser	Stuart
Casas	Gardner	Malchon	Thomas
Childers, D.	Girardeau	Margolis	Thurman
Childers, W. D.	Gordon	Myers	Walker
Crenshaw	Grant	Peterson	Weinstein
Davis	Grizzle	Plummer	Woodson-Howard

Nays—None

Vote after roll call:

Yea—Kirkpatrick

On motion by Senator Crenshaw, the rules were waived and **SB 1028** was ordered immediately certified to the House.

Consideration of **CS for SB 1022** and **CS for SB 1024** was deferred.

SB 262—A bill to be entitled An act relating to controlled substances; amending s. 893.13, F.S.; increasing the criminal penalties for specified violations committed by an adult in the presence of a minor; providing an effective date.

—was read the second time by title. On motion by Senator Diaz-Balart, by two-thirds vote SB 262 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—25

Beard	Diaz-Balart	Malchon	Stuart
Brown	Dudley	Margolis	Thomas
Casas	Gardner	Myers	Thurman
Childers, D.	Girardeau	Peterson	Weinstein
Childers, W. D.	Grant	Plummer	
Davis	Jennings	Scott	
Deratany	Johnson	Souto	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Langley, Woodson-Howard

SB 946—A bill to be entitled An act relating to saltwater fisheries; amending s. 370.25, F.S.; requiring the Department of Natural Resources to establish criteria for the construction and management of certain artificial fishing reefs; providing an effective date.

—was read the second time by title.

The Committee on Natural Resources and Conservation recommended the following amendment which was moved by Senator Grizzle and adopted:

Amendment 1—On page 2, line 10, after "*reefs.*" insert: *No material shall be permitted to be used in construction which has not been found to be safe for marine life and human health by the Department of Environmental Regulation.*

On motion by Senator Grizzle, by two-thirds vote SB 946 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—27

Bankhead	Diaz-Balart	Jennings	Stuart
Brown	Dudley	Johnson	Thomas
Casas	Gardner	Malchon	Thurman
Childers, D.	Girardeau	Margolis	Walker
Childers, W. D.	Gordon	Myers	Weinstein
Davis	Grant	Peterson	Woodson-Howard
Deratany	Grizzle	Souto	

Nays—1

Beard

Consideration of **SB 2468** was deferred.

CS for SB 2920—A bill to be entitled An act relating to corporations; amending s. 214.23, F.S.; correcting a cross-reference; amending s. 253.03, F.S.; correcting a cross-reference; amending s. 424.10, F.S.; correcting a cross-reference; amending s. 607.0120, F.S.; permitting additional copies of documents to be filed; amending s. 607.0122, F.S.; correcting spelling; amending s. 607.0125, F.S.; permitting delivery of acknowledgments; amending s. 607.0126, F.S.; prescribing time within which appeal may be taken; renumbering and amending s. 607.0140, F.S.; correcting a cross-reference; amending s. 607.0202, F.S.; requiring articles of incorporation to contain certain addresses; requiring an acceptance; amending s. 607.0501, F.S.; authorizing certain corporations to be registered agents; providing certain free corporate information; correcting a cross-reference; amending s. 607.0504, F.S.; providing for certain notice; amending s. 607.0505, F.S.; correcting a cross-reference; adding definitions; amending s. 607.0603, F.S.; correcting a cross-reference; amending s. 607.0624, F.S.; prescribing conditions of stock rights and options; renumbering s. 607.0640, F.S.; amending s. 607.0721, F.S.; revising exceptions to voting entitlement of shares; amending s. 607.0727, F.S.; providing voting requirements in shareholder voting; amending s. 607.0731, F.S.; providing validity of shareholder agreements; renumbering ss. 607.0740, 607.0810, 607.0840, F.S.; amending s. 607.0834, F.S.; correcting a cross-reference; amending s. 607.1105, F.S.; prescribing requirements for execution of articles of merger or share exchange; amending s. 607.1202, F.S.; correcting a cross-reference; amending s. 607.1405, F.S.; permitting certain assumptions of corporate name; permitting appointment of a trustee; amending s. 607.1406, F.S.; correcting an obsolete term; amending s. 607.1420, F.S.; correcting an obsolete term; amending s. 607.1422, F.S.; requiring an additional signature on annual report; permitting immediate use of corporate name under certain conditions; amending s. 607.1433, F.S.; correcting cross-references; prescribing method for notice; renum-

bering s. 607.1440, F.S.; amending s. 607.1504, F.S.; prescribing additional requirements for application; amending s. 607.1506, F.S.; prescribing method of executing document; amending s. 607.1507, F.S.; prescribing limitations on registered agents of foreign corporations; amending s. 607.1508, F.S.; prescribing additional requirement for statement of change; amending s. 607.1509, F.S.; requiring submission of additional addresses; renumbering s. 607.1510, F.S.; amending s. 607.1531, F.S.; correcting cross-references; creating s. 607.15315, F.S.; providing for applications for reinstatement; providing procedure for reinstatement; amending s. 607.1622, F.S.; requiring additional address; permitting updated annual report to be part of official record; amending s. 607.1801, F.S.; correcting cross-references; deleting reference to an acknowledgment; amending s. 608.451, F.S; correcting a cross-reference; amending s. 617.003, F.S.; correcting a cross-reference; amending s. 617.013, F.S.; correcting a cross-reference; amending s. 617.018, F.S.; correcting a cross-reference; amending s. 617.023, F.S.; correcting cross-references; amending s. 617.028, F.S.; correcting cross-references; amending s. 617.041, F.S.; correcting a cross-reference; amending s. 620.192, F.S.; correcting cross-references; amending s. 621.13, F.S.; correcting a cross-reference; amending s. 628.530, F.S.; correcting a cross-reference; amending s. 631.0515; correcting a cross-reference; amending s. 658.23, F.S.; correcting a cross-reference; amending s. 658.48, F.S.; correcting a cross-reference; amending s. 663.03, F.S.; correcting a cross-reference; amending s. 665.0201, F.S.; correcting a cross-reference; deleting a cross-reference; amending s. 665.023, F.S.; correcting a cross-reference; providing definitions; amending s. 665.0311, F.S.; correcting a cross-reference; amending s. 719.1035, F.S.; correcting a cross-reference; repealing ss. 607.001, 607.004, 607.007, 607.011, 607.014, 607.017, 607.021, 607.024, 607.027, 607.031, 607.034, 607.037, 607.041, 607.044, 607.047, 607.051, 607.054, 607.057, 607.058, 607.061, 607.064, 607.067, 607.071, 607.074, 607.077, 607.081, 607.084, 607.087, 607.091, 607.094, 607.097, 607.101, 607.104, 607.107, 607.108, 607.109, 607.110, 607.111, 607.114, 607.117, 607.121, 607.124, 607.127, 607.131, 607.134, 607.137, 607.141, 607.144, 607.147, 607.151, 607.154, 607.157, 607.161, 607.164, 607.1645, 607.165, 607.167, 607.171, 607.174, 607.177, 607.181, 607.184, 607.187, 607.191, 607.194, 607.197, 607.201, 607.204, 607.207, 607.211, 607.214, 607.217, 607.219, 607.221, 607.224, 607.227, 607.231, 607.234, 607.237, 607.241, 607.244, 607.247, 607.251, 607.254, 607.257, 607.261, 607.264, 607.267, 607.271, 607.274, 607.277, 607.281, 607.284, 607.287, 607.291, 607.294, 607.297, 607.301, 607.304, 607.307, 607.311, 607.317, 607.321, 607.324, 607.325, 607.327, 607.337, 607.341, 607.344, 607.347, 607.351, 607.354, 607.355, 607.357, 607.361, 607.371, 607.372, 607.374, 607.377, 607.381, 607.384, 607.387, 607.391, 607.394, 607.397, 607.401, 607.404, 607.407, 607.411, and 607.414, F.S.; providing an effective date.

—was read the second time by title.

Senator D. Childers moved the following amendment which was adopted:

Amendment 1—On page 10, line 3, after "subsections" insert: (1),

Senator Grant moved the following amendment which was adopted:

Amendment 2—On page 30, line 29, insert a new section 41:

Section 41. Section 607.1907, Florida Statutes, is amended to read:

607.1907 Effect of repeal of prior acts.—

(1) Except as provided in subsection (2), the repeal of a statute by this act does not affect:

(a) The operation of the statute or any action taken under it before its repeal, *including, without limiting the generality of the foregoing, the continuing validity of any provision of the articles of incorporation or bylaws of a corporation authorized by the statute at the time of its adoption*;

(b) Any ratification, right, remedy, privilege, obligation, or liability acquired, accrued, or incurred under the statute before its repeal;

(c) Any violation of the statute, or any penalty, forfeiture, or punishment incurred because of the violation, before its repeal;

(d) Any proceeding, *merger, consolidation, sale of assets,* reorganization, or dissolution commenced under the statute before its repeal, and the proceeding, *merger, consolidation, sale of assets,* reorganization, or dissolution may be completed in accordance with the statute as if it had not been repealed.

(2) If a penalty or punishment imposed for violation of a statute repealed by this act is reduced by this act, the penalty or punishment if not already imposed shall be imposed in accordance with this act.

(Renumber subsequent sections.)

On motion by Senator D. Childers, by two-thirds vote CS for SB 2920 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29

Bankhead	Deratany	Jennings	Thomas
Beard	Diaz-Balart	Johnson	Thurman
Brown	Dudley	Malchon	Walker
Casas	Gardner	Margolis	Weinstein
Childers, D.	Girardeau	Myers	Woodson-Howard
Childers, W. D.	Gordon	Plummer	
Crenshaw	Grant	Souto	
Davis	Grizzle	Stuart	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Langley, Scott

SB 562—A bill to be entitled An act relating to growth management; amending s. 163.3171, F.S.; providing that the state land planning agency may waive or modify requirements for comprehensive plans or plan amendments for certain municipalities; providing an effective date.

—was read the second time by title.

Senator Crenshaw moved the following amendments which were adopted:

Amendment 1—On page 1, line 10, insert:

Section 1. Paragraph (d) of subsection (7) of section 163.01, Florida Statutes, is amended to read:

163.01 Florida Interlocal Cooperation Act of 1969.—

(7)

(d) Notwithstanding the provisions of paragraph (c), any separate legal entity *created pursuant to this section and controlled*~~, wholly owned~~ by the municipalities or counties of this state *or by one or more municipality and one or more county of this state*, the membership of which consists or is to consist ~~only~~ of municipalities *only*, ~~or~~ counties *only, or one or more municipality and one or more county* ~~created pursuant to the provisions of this section~~, may, for the purpose of financing or refinancing any capital projects, exercise all powers in connection with the authorization, issuance, and sale of bonds. *Notwithstanding any limitations provided in this section,* all of the privileges, benefits, powers, and terms of *part I of chapter 125, part II of chapter 166, and* part I of chapter 159 ~~and, in the case of counties, part I of chapter 125, and, in the case of municipalities, part II of chapter 166, notwithstanding any limitations provided above,~~ shall be fully applicable to such entity. *Bonds issued by such entity shall be deemed issued on behalf of the counties or municipalities which enter into loan agreements with such entity as provided in this paragraph. Any loan agreement executed pursuant to a program of such entity shall be governed by the provisions of part I of chapter 159 or, in the case of counties, part I of chapter 125, or in the case of municipalities and charter counties, part II of chapter 166. Proceeds of bonds issued by such entity may be loaned to counties or municipalities of this state or a combination of municipalities and counties, whether or not such counties or municipalities are also members of the entity issuing the bonds. The issuance of bonds by such entity to fund a loan program to make loans to municipalities or counties or a combination of municipalities and counties with one another for capital projects to be identified subsequent to the issuance of the bonds to fund such loan programs is deemed to be a paramount public purpose.* Any entity so created may also issue bond anticipation notes, as provided by s. 215.431, in connection with the authorization, issuance, and sale of such bonds. In addition, the governing body of such legal entity may also authorize bonds to be issued and sold from time to time and may delegate, to such officer, official, or agent of such legal entity as the governing

body of such legal entity may select, the power to determine the time; manner of sale, public or private; maturities; rate or rates of interest, which may be fixed or may vary at such time or times and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer, official, or agent so designated by the governing body of such legal entity. However, the amounts and maturities of such bonds and the interest rate or rates of such bonds shall be within the limits prescribed by the governing body of such legal entity and its resolution delegating to such officer, official, or agent the power to authorize the issuance and sale of such bonds. Bonds issued pursuant to this paragraph may be validated as provided in chapter 75. The complaint in any action to validate such bonds shall be filed only in the Circuit Court for Leon County. The notice required to be published by s. 75.06 shall be published only in Leon County, and the complaint and order of the circuit court shall be served only on the State Attorney of the Second Judicial Circuit and on the state attorney of each circuit in each county where the public agencies which were initially a party to the agreement are located. Notice of such proceedings shall be published in the manner and the time required by s. 75.06 in Leon County and in each county where the public agencies which were initially a party to the agreement are located. *Obligations of any county or municipality pursuant to a loan agreement as described in this paragraph may be validated as provided in chapter 75.*

(Renumber subsequent sections.)

Amendment 2—In title, on page 1, line 2, after the semicolon (;) insert: amending s. 163.01, F.S.; authorizing certain entities to issue bonds pursuant to loan agreements with counties or municipalities; providing that such bonds are deemed to be issued for a public purpose; providing for the validation of such bonds;

On motion by Senator Thomas, by two-thirds vote SB 562 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—24

Bankhead	Davis	Johnson	Souto
Beard	Dudley	Kiser	Thomas
Casas	Girardeau	Malchon	Thurman
Childers, D.	Grant	Margolis	Walker
Childers, W. D.	Grizzle	Myers	Weinstein
Crenshaw	Jennings	Plummer	Woodson-Howard

Nays—4

Brown	Diaz-Balart	Gardner	Gordon

On motion by Senator Grizzle, by two-thirds vote CS for HB 1997 was withdrawn from the Committee on Governmental Operations.

On motions by Senator Grizzle, by two-thirds vote—

CS for HB 1997—A bill to be entitled An act relating to county government; amending s. 125.66, F.S.; providing requirements with respect to enactment of county ordinances or resolutions which affect the use of land; amending s. 125.68, F.S.; providing certain exceptions to the requirement that counties codify and annually publish all county ordinances; requiring that records be kept and certain notations be made of ordinances that are so exempt; providing an effective date.

—a companion measure, was substituted for CS for SB 358 and by two-thirds vote read the second time by title. On motion by Senator Grizzle, by two-thirds vote CS for HB 1997 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Bankhead	Dudley	Kiser	Thomas
Brown	Gardner	Malchon	Thurman
Casas	Girardeau	Margolis	Walker
Childers, W. D.	Gordon	Myers	Weinstein
Crenshaw	Grant	Peterson	Woodson-Howard
Davis	Grizzle	Plummer	
Deratany	Jennings	Souto	
Diaz-Balart	Johnson	Stuart	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Langley, Scott

On motion by Senator Johnson, by two-thirds vote HB 2383 was withdrawn from the Committee on Judiciary-Criminal.

On motions by Senator Johnson, by two-thirds vote—

HB 2383—A bill to be entitled An act relating to perjury and false statements; creating s. 837.07, F.S.; defining the defense of recantation to a criminal charge of perjury or false statement; providing an effective date.

—a companion measure, was substituted for SB 1952 and by two-thirds vote read the second time by title. On motion by Senator Johnson, by two-thirds vote HB 2383 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Bankhead	Deratany	Jennings	Stuart
Beard	Diaz-Balart	Johnson	Thomas
Brown	Dudley	Kiser	Thurman
Casas	Gardner	Malchon	Walker
Childers, D.	Girardeau	Margolis	Weinstein
Childers, W. D.	Gordon	Myers	Woodson-Howard
Crenshaw	Grant	Plummer	
Davis	Grizzle	Souto	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Langley, Scott

CS for SB 1882—A bill to be entitled An act relating to the local option tourist development tax; amending s. 125.0104, F.S.; revising the definition of a high tourism impact county, which is authorized to levy an additional tax; providing an effective date.

—was read the second time by title. On motion by Senator Gardner, by two-thirds vote CS for SB 1882 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Bankhead	Deratany	Jennings	Souto
Beard	Diaz-Balart	Johnson	Stuart
Brown	Dudley	Kiser	Thomas
Casas	Gardner	Malchon	Thurman
Childers, D.	Girardeau	Margolis	Walker
Childers, W. D.	Gordon	Myers	Weinstein
Crenshaw	Grant	Peterson	Woodson-Howard
Davis	Grizzle	Plummer	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Langley, Scott

SB 2400—A bill to be entitled An act relating to land surveying; amending s. 472.003, F.S., relating to exemptions from provisions regulating land surveying; modifying an exemption for certain contractors; saving s. 472.003(3), F.S., from repeal; continuing the exemption for certain persons who perform construction layout from established controls; providing an effective date.

—was read the second time by title. On motion by Senator Jennings, by two-thirds vote SB 2400 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—18

Bankhead	Gardner	Malchon	Walker
Casas	Girardeau	McPherson	Weinstein
Childers, W. D.	Grizzle	Plummer	Woodson-Howard
Diaz-Balart	Jennings	Souto	
Dudley	Johnson	Thomas	

Nays—7

Brown	Davis	Myers	Thurman
Childers, D.	Grant	Stuart	

Vote after roll call:

Yea—Crenshaw

On motion by Senator Jennings, the rules were waived and **SB 2400** was ordered immediately certified to the House.

CS for SB 2026—A bill to be entitled An act relating to motor vehicle valuations; amending s. 212.05, F.S.; amending the manner in which the Department of Revenue determines the value of used motor vehicles for purposes of sales and use taxes; amending s. 319.30, F.S.; providing for averaging of used motor vehicle values by the Department of Highway Safety and Motor Vehicles for purposes of determining whether salvaged vehicles are unrebuildable; amending s. 723.061, F.S.; providing for the adoption by the Department of Highway Safety and Motor Vehicles of valuation guides for purposes of determining the price at which a mobile home park owner must purchase a mobile home in the event of eviction of the homeowner under certain circumstances; providing an effective date.

—was read the second time by title. On motion by Senator Johnson, by two-thirds vote CS for SB 2026 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26

Bankhead	Dudley	Kiser	Thomas
Brown	Gardner	Malchon	Thurman
Casas	Girardeau	McPherson	Walker
Childers, D.	Grant	Myers	Weinstein
Childers, W. D.	Grizzle	Plummer	Woodson-Howard
Davis	Jennings	Souto	
Diaz-Balart	Johnson	Stuart	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Langley, Scott

Consideration of **SB 2510** was deferred.

SB 2986—A bill to be entitled An act relating to pari-mutuel wagering; amending s. 550.0121, F.S.; providing additional performances of greyhound operation in Volusia County; directing the Florida Parimutuel Commission to annually award such additional operating days; providing an effective date.

—was read the second time by title. On motion by Senator Brown, by two-thirds vote SB 2986 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—25

Bankhead	Girardeau	McPherson	Thurman
Brown	Grant	Myers	Walker
Casas	Grizzle	Peterson	Weinstein
Childers, W. D.	Jennings	Plummer	Woodson-Howard
Davis	Johnson	Souto	
Diaz-Balart	Kiser	Stuart	
Gardner	Malchon	Thomas	

Nays—1

Dudley

CS for SB 1288—A bill to be entitled An act relating to sexual misconduct in the practice of psychotherapy; providing criminal penalties for psychotherapists who engage in sexual misconduct with a client or former client, and enhanced penalties for second and subsequent offenses; providing a criminal penalty for therapeutic deceptions; eliminating client consent as a defense to offenses; defining psychotherapists, therapeutic deception, sexual misconduct, and client; providing an effective date.

—was read the second time by title. On motion by Senator Stuart, by two-thirds vote CS for SB 1288 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Bankhead	Diaz-Balart	Johnson	Souto
Brown	Dudley	Kiser	Stuart
Casas	Gardner	Malchon	Thomas
Childers, D.	Girardeau	McPherson	Thurman
Childers, W. D.	Grant	Myers	Walker
Crenshaw	Grizzle	Peterson	Weinstein
Davis	Jennings	Plummer	Woodson-Howard

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Langley, Scott

On motion by Senator Stuart, the rules were waived and **CS for SB 1288** was ordered immediately certified to the House.

Senator Peterson presiding

CS for SB 758—A bill to be entitled An act relating to education; creating s. 231.263, F.S.; creating recovery network for educators; providing eligibility for participation; providing for staff; providing for treatment contracts; providing procedures; providing an exemption from public records requirements for certain disclosed information and providing for review and repeal of the exemption; providing for determination of ineligibility for further assistance; providing for rules; providing for review and repeal; providing an effective date.

—was read the second time by title. On motion by Senator Gardner, by two-thirds vote CS for SB 758 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26

Bankhead	Gardner	Margolis	Thomas
Brown	Girardeau	McPherson	Thurman
Casas	Grant	Myers	Walker
Childers, D.	Grizzle	Peterson	Weinstein
Davis	Jennings	Plummer	Woodson-Howard
Diaz-Balart	Johnson	Souto	
Dudley	Malchon	Stuart	

Nays—None

Vote after roll call:

Yea—W. D. Childers, Kirkpatrick, Langley, Scott

SB 452—A bill to be entitled An act relating to fire and going-out-of-business sales; amending s. 559.21, F.S.; providing for tax collectors instead of sheriffs to issue permits to conduct such sales; requiring the payment of delinquent taxes on the goods to be sold in order for a permit to be issued; revising procedures for the conduct of such a sale; repealing provisions for renewal of such a permit; amending s. 559.22, F.S.; requiring a person who conducts such a sale to specify the permit number within advertisements of the sale; amending s. 559.23, F.S.; providing for payment of permit application fees to tax collectors; deleting provisions for renewal fees; amending s. 559.24, F.S.; revising certain requirements for conducting such a sale; providing that advertisements of such a sale must specify certain information; amending s. 559.26, F.S.; specifying criminal penalties for violation of certain requirements pertaining to such a sale; providing an effective date.

—was read the second time by title. On motion by Senator Davis, by two-thirds vote SB 452 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Bankhead	Dudley	Kiser	Souto
Brown	Gardner	Malchon	Stuart
Casas	Girardeau	Margolis	Thomas
Childers, D.	Grant	McPherson	Thurman
Crenshaw	Grizzle	Myers	Walker
Davis	Jennings	Peterson	Weinstein
Diaz-Balart	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—W. D. Childers, Kirkpatrick, Langley, Scott, Woodson-Howard

Consideration of **CS for SB 470** and **CS for CS for SB 158** was deferred.

On motion by Senator Malchon, by two-thirds vote CS for HB 2139 was withdrawn from the Committee on Agriculture.

On motion by Senator Malchon—

CS for HB 2139—A bill to be entitled An act relating to the sale of dogs or cats; amending and renumbering s. 585.195, F.S.; revising inoculation and deworming requirements for dogs and cats transported into the state for sale or offered for sale within the state; revising requirements relating to health certificates for such dogs and cats; providing for use, retention, and contents of certificates; providing timeframes and age requirements; providing remedies for the consumer if the dog or cat is found unfit for purchase; providing procedures; requiring pet dealers to provide consumers with a written notice of their rights; defining "pet dealer"; providing for injunctive relief; providing exemptions; prohibiting a pet dealer from misrepresenting the breed, sex, or health of a dog or cat; providing penalties; providing an effective date.

—a companion measure, was substituted for CS for SB 124 and read the second time by title. On motion by Senator Malchon, by two-thirds vote CS for HB 2139 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Bankhead	Dudley	Johnson	Plummer
Brown	Gardner	Kiser	Stuart
Casas	Girardeau	Malchon	Thomas
Crenshaw	Gordon	Margolis	Thurman
Davis	Grant	McPherson	Walker
Deratany	Grizzle	Myers	Weinstein
Diaz-Balart	Jennings	Peterson	Woodson-Howard

Nays—None

Vote after roll call:

Yea—W. D. Childers, Kirkpatrick, Langley, Scott

HB 2281—A bill to be entitled An act relating to cancer control and research; amending s. 385.201, F.S.; renaming the Florida Cancer Control and Research Advisory Board; amending ss. 458.324 and 459.0125, F.S.; correcting references; providing an effective date.

—was read the second time by title. On motion by Senator Stuart, by two-thirds vote HB 2281 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Bankhead	Gardner	Kiser	Souto
Brown	Girardeau	Malchon	Stuart
Casas	Gordon	Margolis	Thomas
Crenshaw	Grant	McPherson	Thurman
Davis	Grizzle	Myers	Walker
Diaz-Balart	Jennings	Peterson	Weinstein
Dudley	Johnson	Plummer	Woodson-Howard

Nays—None

Vote after roll call:

Yea—W. D. Childers, Kirkpatrick, Langley, Scott

On motion by Senator Grant, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1498 with amendment and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1498—A bill to be entitled An act relating to postsecondary education programs and institutions; amending s. 240.512, F.S., relating to the H. Lee Moffitt Cancer Center and Research Institute; providing for a board of directors of the not-for-profit corporation; providing for the utilization of hospital facilities and personnel by accredited medical schools and research institutes; providing for a cancer center director and duties thereof; providing for a council of scientific advisors; providing an effective date.

House Amendment 1—On pages 1-4, lines 30-23, strike everything after the enacting clause and insert:

Section 1. Subsection (1) and paragraph (c) of subsection (2) of section 240.512, Florida Statutes, are amended, and subsections (5) and (6) are added to said section, to read:

240.512 H. Lee Moffitt Cancer Center and Research Institute.—There is established the H. Lee Moffitt Cancer Center and Research Institute at the University of South Florida.

(1) The Board of Regents shall enter into an agreement for the utilization of the facilities on the campus of the University of South Florida to be known as the H. Lee Moffitt Cancer Center and Research Institute, including all furnishings, equipment, and other chattels used in the operation of said facilities, with a Florida not-for-profit corporation certified by the Board of Regents as a university direct-support organization pursuant to s. 240.299. This not-for-profit corporation, acting as an instrumentality of the State of Florida, shall govern and operate the H. Lee Moffitt Cancer Center and Research Institute in accordance with the terms of the agreement between the Board of Regents and the not-for-profit corporation. *The affairs of the corporation shall be managed by a board of directors who shall serve without compensation. The President of the University of South Florida and the chairman of the Board of Regents, or his designee, shall be directors of the not-for-profit corporation, together with five representatives of the State University System and no more than fourteen nor less than ten directors who are not medical doctors or state employees. Each director shall have only one vote, shall serve a term of 3 years, and may be reelected to the board. Other than the President of the University of South Florida and the chairman of the Board of Regents, directors shall be elected by a majority vote of the board. The chairman of the board of directors shall be selected by majority vote of the directors.*

(2) The Board of Regents shall provide in the agreement with the not-for-profit corporation for the following:

(c) Utilization of hospital facilities and personnel for mutually approved teaching and research programs conducted by the University of South Florida *or other accredited medical schools or research institutes.*

(5) The cancer center shall be administered by a center director who shall serve at the pleasure of the board of directors of the H. Lee Moffitt Cancer Center and Research Institute, Inc., and who shall have the following powers and duties subject to the approval of the board of directors:

(a) The center director shall establish programs which fulfill the mission of the institute in research, education, treatment, prevention, and the early detection of cancer; however, the center director shall not establish academic programs for which academic credit is awarded and which terminates in the conference of a degree without prior approval of the Board of Regents.

(b) The center director shall have control over the budget and the dollars appropriated or donated to the center from private, state, and federal sources, as well as technical and professional income generated or derived from practice activities of the center. However, professional income generated by university faculty from practice activities at the center shall be shared between the center and the university as determined by the center director and the appropriate university department chairman.

(c) The center director shall appoint members to carry out the research, patient care, and educational activities of the center and determine compensation, benefits, and terms of service. Members of the center shall be eligible to hold concurrent appointments at affiliated academic institutions. University faculty shall be eligible to hold concurrent appointments at the center.

(d) The center director shall have control over the use and assignment of space and equipment within the facility.

(e) The center director shall have the power to create the administrative structure necessary to carry out the mission of the center.

(f) The center director shall have a reporting relationship to the Chancellor of the State University System.

(g) The center director shall provide a copy of its annual report to the Governor and Cabinet, President of the Senate, Speaker of the House of Representatives, and chairman of the Board of Regents.

(6) The board of directors of the corporation shall create a council of scientific advisors to the center director comprised of leading researchers and scientists. This council shall review programs and recommend research priorities and initiatives so as to maximize the state's investment in the center. The council shall be appointed by the board of directors of the corporation and shall include five appointees of the Board of Regents. Each member of the council shall serve 2-year terms.

Section 2. This act shall take effect July 1, 1990, or upon becoming a law, whichever occurs later.

On motion by Senator Grant, the Senate concurred in the House amendment.

CS for SB 1498 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—30

Bankhead	Dudley	Kiser	Stuart
Brown	Gardner	Malchon	Thomas
Casas	Girardeau	Margolis	Thurman
Childers, D.	Gordon	McPherson	Walker
Crenshaw	Grant	Myers	Weinstein
Davis	Grizzle	Peterson	Woodson-Howard
Deratany	Jennings	Plummer	
Diaz-Balart	Johnson	Souto	

Nays—None

Vote after roll call:

Yea—W. D. Childers, Kirkpatrick, Langley, Scott

RECESS

On motion by Senator Thomas, the Senate recessed at 3:30 p.m. to reconvene upon call of the President.

CALL TO ORDER

The Senate was called to order by the President at 3:45 p.m. A quorum present—40:

Mr. President	Deratany	Johnson	Plummer
Bankhead	Diaz-Balart	Kirkpatrick	Scott
Beard	Dudley	Kiser	Souto
Brown	Forman	Langley	Stuart
Bruner	Gardner	Malchon	Thomas
Casas	Girardeau	Margolis	Thurman
Childers, D.	Gordon	McPherson	Walker
Childers, W. D.	Grant	Meek	Weinstein
Crenshaw	Grizzle	Myers	Weinstock
Davis	Jennings	Peterson	Woodson-Howard

SPECIAL ORDER, continued

CS for SB 1316—A bill to be entitled An act relating to the transportation needs of Florida; providing legislative intent; creating s. 338.001, F.S.; creating the Florida Intrastate Highway System Plan; amending s. 334.03, F.S.; providing funding allocations; redefining the term "controlled access facility," "limited access facility," and "State Highway System"; defining the term "Florida Intrastate Highway System"; amending s. 334.046, F.S.; including the development and implementation of the Florida Intrastate Highway System within the program objectives of the Department of Transportation; amending ss. 288.063, 479.01, F.S.; correcting cross-references; amending s. 338.221, F.S.; redefining the terms "turnpike system," "turnpike improvement," "economically feasible," and "turnpike project"; defining the term "statement of environmental feasibility"; amending s. 338.222, F.S.; prohibiting governmental entities, other than the department, from operating turnpike projects; providing for contracts between local governmental entities and the department; amending s. 338.223, F.S.; revising language with respect to proposed turnpike projects; providing for legislative approval at a certain point; amending s. 338.227, F.S.; providing reference to legislative approval with respect to turnpike revenue bonds; providing a limitation on the use of revenues and bond proceeds by the Department of Transportation with respect to the Florida Turnpike Law; encouraging minority business participation; amending s. 287.042, F.S.; revising language with respect to the powers and duties of the Division of Purchasing of the Department of General Services; defining the term "minority business enterprises"; creating s. 338.2275, F.S.; providing for Legislative intent with respect to the Western Beltway turnpike project; providing for approved turnpike projects; providing a list of approved projects; providing for economic feasibility; amending s. 348.243, F.S.; providing an additional power of the Broward County Expressway Authority; amending s. 338.228, F.S.; revising language with respect to certain bonds not being considered debts or pledges of credit by the state; amending s. 338.231, F.S.; revising language with respect to turnpike tolls; amending s. 215.82, F.S.; including a cross-reference with respect to bond validation; amending s. 338.251, F.S.; revising language with respect to the fund; prohibiting advancements under certain circumstances; providing for the deposit of certain funds into the Toll Facilities Revolving Trust Fund; creating s. 338.25, F.S.; providing for Central Florida Beltway mitigation; renaming chapter 338, F.S., as Florida Intrastate Highway System and Toll Facilities; creating the Florida Expressway Authority Act; providing definitions; providing for formation and membership of the authority; providing purposes and powers; providing for bonds; providing for lease-purchase agreement; providing that the Department of Transportation may be appointed as an agent for construction; providing for acquisition of lands and property; providing for cooperation with other units, boards, agencies, and individuals; providing for the covenant of the state; providing for exemption from taxation; providing for applicability; creating s. 337.276, F.S.; providing requirements with respect to the Department of Transportation in regard to advanced acquisition of right-of-way; amending s. 339.135, F.S.; providing for the allocation of funds for bridge fender system construction or repair; providing for allocation of funds for public transit block grants; providing for identification of advanced right-of-way acquisition projects and right-of-way phases in the tentative work program; requiring additional information in the report submitted by the department with the tentative work program; providing that certain projects identified in the General Appropriations Act shall also be identified as a debit against described funds; revising language with respect to the amendment of the adopted work program; amending s. 339.155, F.S.; providing for the identification and acquisition of right-of-way in the development of the statewide transportation plan; requiring the consideration of a seaport or airport master plan; providing criteria for certain projects; amending s. 339.12, F.S.; revising language with respect to aid and contributions by governmental entities for rights-of-way, construction, or maintenance of roads and bridges in the State Highway System; amending s. 335.20, F.S.; revising the Local Government Transportation Assistance Act with respect to project funding by the Department of Transportation; creating s. 334.048, F.S.; providing legislative intent with respect to department management accountability and monitoring systems; amending s. 20.23, F.S.; providing additional duties of the secretary; revising language with respect to the central office; providing for an Assistant Secretary for Transportation Policy and prescribing his duties; providing for additional duties for the central office; providing for the Office of Information Systems; providing for additional duties of the Assistant Secretary for Finance and Administration; providing for a chief internal auditor; revising the requirements of the Comptroller; providing additional responsibilities of each district secretary; providing for the appointment of a State Public Transportation Administrator and prescribing his responsibilities; revising language with respect to certain contracts; amending s. 337.221, F.S.; providing for a claims settlement process; creating s. 337.162, F.S.; providing requirements with respect to substandard services; amending s. 339.149, F.S.; providing for periodic audits by the Auditor General; requiring an annual report to the Legislature; amending s. 120.53, F.S.; revising language with respect to agencies providing notice of decision under the Administrative Procedure Act; requiring encouraging the participation of disadvantaged business enterprises; amending s. 337.11, F.S.; requiring the department to take certain steps prior to advertisement of work for bid; revising language with respect to the contracting authority of the Department of Transportation; amending s. 337.16, F.S.; revising language with respect to bid disqualification; amending s. 337.175, F.S.; revising language with respect to retainage; amending s. 337.18, F.S.; revising language with respect to liquidated damages; requiring a schedule of liquidated damages in construction contracts; specifying categories; providing penalties for delinquent

contractors; amending s. 337.106, F.S.; providing for waiver of professional liability insurance under certain circumstances; requiring approval by the department comptroller; amending s. 73.091, F.S.; conforming a cross-reference to other changes made by the act; creating s. 73.032, F.S.; providing for offer of judgment in eminent domain actions; providing for acceptance, rejection, and withdrawal of the offer of judgment; requiring the person making the offer to make certain construction plans available; amending s. 73.092, F.S.; revising procedures for award of attorney's fees in eminent domain proceedings; requiring that the greatest weight be given to benefits resulting to the client; providing for reduction of attorney's fees to be paid pursuant to a fee agreement in specified circumstances; providing circumstances for limiting attorney's fees after rejection of an offer of judgment; amending s. 74.011, F.S.; deleting obsolete language; amending s. 337.271, F.S.; specifying contents of the invoice for costs in Department of Transportation negotiations for land acquisition; providing for nonbinding mediation of compensation and business damage claims; providing that certain statements used in mediation are not admissible in subsequent proceedings; specifying applicability; providing for a review of duties of M.P.O.'s; providing for a determination of major allocations of public roads between state and local government; amending s. 334.065, F.S.; providing procedures for the submission of an annual budget by the Center for Urban Transportation Research; amending s. 320.20, F.S.; increasing the amount deposited in the State Transportation Trust Fund; amending s. 119.07, F.S.; correcting a reference; amending s. 206.46, F.S.; allocating funds from the State Transportation Trust Fund for public transportation projects; creating s. 311.07, F.S.; creating the Florida Seaport Transportation and Economic Development Trust Fund; providing funding allocations; creating s. 311.09, F.S.; creating the Florida Seaport Transportation and Economic Development Council; providing powers and duties; providing for review and repeal; amending s. 332.004, F.S.; providing definitions; amending s. 332.006, F.S.; providing for separate identification of development projects and discretionary capacity improvement projects in the statewide aviation system plan; permitting expenditure of state aviation funds on road and rail transportation systems which are on airport property; amending s. 332.007, F.S.; requiring that projects be included in a metropolitan planning organization transportation improvement program prior to receipt of funds; providing funding priority for specified airport development projects; authorizing expenditure of funds for projects which provide for construction of an automatic weather observation station; limiting the amount of development project funds an airport may receive if it is also receiving discretionary capacity improvement funds; requiring consistency of aviation projects with airport master plans as a condition for state funding eligibility; authorizing retroactive reimbursement for the nonfederal share of certain land acquisition projects; authorizing participation by the Department of Transportation in the capital cost of eligible public airport and aviation discretionary capacity improvement projects; authorizing expenditure of funds for projects which provide improved airport access subject to approval by the sponsor; limiting the amount of discretionary capacity improvement project funds that a single airport may receive; allowing the department to transfer funds for discretionary capacity improvement projects within the discretionary capacity improvements program; setting the rate of participation by the department in the costs of eligible discretionary capacity improvement projects, including land acquisition projects; amending s. 332.01, F.S.; revising the definition of "airport" to include access to airport facilities; amending s. 333.01, F.S.; providing definitions; amending s. 333.02, F.S.; providing for regulation of land uses in the vicinity of airports; amending s. 333.03, F.S.; providing for adoption of zoning regulations for runway clear zones and airport land use compatibility; creating s. 333.031, F.S.; creating the Airport Safety and Land Use Compatibility Study Commission; providing for a report; amending s. 333.05, F.S.; providing procedures for the adoption of zoning regulations; amending s. 333.06, F.S.; providing reasonableness and independent justification as airport zoning requirements; amending s. 333.07, F.S.; providing for variance requirements; amending s. 337.242, F.S.; providing that movement of people and goods to and from seaports and airports is a transportation use; amending s. 337.25, F.S.; providing for lease of rail corridors to ports; amending s. 339.175, F.S.; revising language with respect to transportation planning organizations; revising membership of metropolitan planning organizations; amending s. 341.031, F.S.; revising definitions for purposes of the Florida Public Transit Act; amending s. 341.041, F.S.; requiring the Department of Transportation to develop and administer state measures concerning public transit systems and including productivity and cost distribution in such measures; revising the measures for certain responsibilities of the department relating to operation of transit systems; amending s. 341.051, F.S.; requiring the department to develop and implement a capital investment policy; creating s. 341.052, F.S.; establishing a public transit block grant program; providing uses for which block grant funds may be expended; providing limitations on use of funds; establishing auditing requirements; allocating 15 percent of the public transit block grant funds to the Transportation Disadvantaged Trust Fund; providing for certain recipients of such allocations; providing limitations on use of funds; creating s. 341.053, F.S.; creating an intermodal development program; requiring the department to administer the program; providing for the distribution of intermodal development funds; providing priorities for funding; creating s. 341.071, F.S.; requiring the establishment of transit development plans consistent with approved local comprehensive plans; requiring eligible public transit providers to establish productivity and performance measures; requiring certain reports and publication with respect thereto; creating part III of chapter 343, F.S.; creating the "Tampa Bay Commuter Rail Authority Act"; providing definitions; creating the Tampa Bay Commuter Rail Authority; providing for membership; establishing terms of members; providing for filling vacancies; providing powers and duties of the authority; providing for interagency cooperation and contracts; providing for compliance with certain reporting requirements; requiring authority to comply with equal opportunity hiring practices; providing for public and private funding; authorizing issuance of revenue bonds; directing that bonds are not debts or pledges of credit of the state; requiring the authority to develop an annual operating plan; providing for annual review of plan; providing for pledge to bondholders; amending s. 341.325, F.S.; providing for feasibility and planning studies for high-speed rail facilities and for most promising corridors; amending ss. 212.05 and 212.62, F.S.; increasing the rate of the tax on the sale of fuels; revising requirements for calculating the annual adjustment thereof; amending s. 336.026, F.S.; deleting authorization for a local option tax on motor and special fuel for metropolitan transportation systems; providing for an additional tax on motor and special fuel; providing for rates thereof and for annual adjustment; specifying use of the tax; providing for collection, administration, distribution, and enforcement; providing for application of refunds; amending ss. 207.003, 207.005, and 207.026, F.S.; including said additional tax in the rate of the tax on the privilege of operating a commercial motor vehicle; amending s. 72.011, F.S., relating to jurisdiction of the circuit courts, s. 72.041, F.S., relating to enforcement of other states' tax warrants, s. 213.05, F.S., relating to duties of the Department of Revenue, s. 213.21, F.S., relating to exceptions from compromise provisions, and s. 213.29, F.S., relating to penalty for failure to pay tax, to include said additional tax; repealing part VII of chapter 163, F.S., the Metropolitan Transportation Authority Act; amending s. 189.404, F.S., to conform; amending s. 206.9825, F.S.; increasing the excise tax on aviation fuel; amending s. 212.67, F.S.; providing for a credit against the district gas tax to retail dealers for shrinkage; amending s. 212.0606, F.S.; increasing the surcharge on rental of motor vehicles; specifying that the surcharge is subject to all applicable taxes under chapter 212; revising the distribution of the proceeds thereof; amending s. 319.32, F.S.; increasing certain motor vehicle title certificate fees and providing for disposition thereof; providing for an exception; amending ss. 206.877 and 206.879, F.S.; revising provisions relating to annual decal fees for vehicles fueled by alternative fuels and the disposition thereof; amending s. 320.03, F.S.; increasing the fee charged on motor vehicle license registrations and used for purposes of air pollution control and revising the distribution thereof; amending s. 320.072, F.S.; increasing the additional fee on certain initial vehicle registrations and revising the distribution thereof; amending s. 320.14, F.S.; revising provisions which authorize fractional license taxes under certain conditions; amending s. 320.15, F.S.; deleting the requirement to refund certain motor vehicle license taxes; amending s. 320.0609, F.S.; deleting the requirement to refund certain motor vehicle license taxes; providing for the retroactive application of s. 206.87(3)(g), F.S., in certain circumstances; requiring the Florida Transportation Commission to adopt goals by which to measure the performance and productivity of the department; providing procedures; requiring the commission to measure the department's performance on a quarterly basis and to report its findings; providing a penalty for the failure of the department to meet or exceed performance goals; providing exceptions; providing for review and repeal; providing for an improved tentative work program; providing for amending the adopted work program; providing effective dates.

—was read the second time by title.

Senator Beard moved the following amendments which were adopted:

Amendment 1—On page 24, strike line 3 and insert: *such project or projects and such projects are determined to be consistent, to the maximum extent feasible, with approved local government comprehensive plans of the local governments in which such projects are located.* The department may authorize

Amendment 2—On page 24, strike all of lines 15-18 and insert: ~~feasibility.~~ *If a proposed project or groups of proposed projects is found to be economically feasible, consistent, to the maximum extent feasible, with approved local government comprehensive plans of the local governments in which such projects are located, and a favorable statement of environmental feasibility has been completed,* the department, *with the approval of the Legislature,* shall, *after the receipt of all necessary permits,*

Amendment 3—On page 65, line 1, insert:

(f) The central office shall submit the tentative work program to the Florida Transportation Commission and the Department of Community Affairs at least 30 days prior to submission to the Governor and Legislature. The department shall provide the Department of Community Affairs with copies of the preliminary tentative work program for review as soon as feasible. The Department of Community Affairs shall transmit to the Florida Transportation Commission a list of those projects and project phases contained in the tentative work program which are identified ~~pursuant to s. 339.175(10)~~ as being inconsistent with approved local government comprehensive plans. *For urbanized areas of metropolitan planning organizations,* Ssaid list shall not contain any project or project phase which is scheduled in a transportation improvement program unless such inconsistency has been previously reported to the affected metropolitan planning organization. The commission shall consider said list as part of its evaluation of the tentative work program.

Amendment 4—On page 30, line 17, after "department" insert: , determination that such projects are consistent, to the maximum extent feasible, with approved local government comprehensive plans of the local government jurisdiction in which such projects are located,

Senator Girardeau moved the following amendment which failed:

Amendment 5—On page 133, line 10, strike "15" and insert: 16

Senator Beard moved the following amendment which was adopted:

Amendment 6—On page 183, line 24, through page 185, line 3, strike all of said lines and insert:

2. The rate of the tax in each county shall be equal to two-thirds of the sum of the taxes imposed on motor fuel and special fuel pursuant to ss 336 021 and 336 025 in such county, rounded to the nearest tenth of a cent The initial rate of tax shall not exceed 4 cents.

3. The initially established tax rates, provided in subparagraph 2, shall be adjusted on January 1 of each year by the percentage change calculated pursuant to s. 212.62(3)(a)1. and rounded to the nearest tenth of a cent, except that the base year for such calculation shall be the average for the 12-month period ending September 30, 1990 This adjustment will begin for the forthcoming 12-month period beginning January 1, 1992.

(b)*1. In addition to other taxes allowed by law, there is hereby imposed a tax on every gallon of special fuel sold in each county and taxed under the provisions of part II of chapter 206 at an initial rate of 1 cent per gallon for calendar year 1991, 2 cent per gallon for calendar year 1992, 3 cent per gallon for calendar year 1993, 4 cent per gallon thereafter.*

2. The initially established tax rates, provided in subparagraph 1, shall be adjusted on January 1 of each year by the percentage change calculated pursuant to s. 212.62(3)(a)1. and rounded to the nearest tenth of a cent, except that the base year for such calculation shall be the average for the 12-month period ending September 30, 1990. This adjustment will begin for the forthcoming 12-month period beginning January 1, 1992. ~~The tax shall be imposed effective 60 days after the first day of the month following the referendum ratifying the regional ground transportation plan pursuant to s. 163.805. The tax shall only be collected in those counties in a regional ground transportation area, as defined in s. 163.803(4), which have ratified the regional ground transportation plan adopted by the metropolitan transportation authority pursuant to s. 163.805.~~

(c) *For counties increasing the rate of tax imposed by ss. 336.021 and 336.025 after July 1, 1991 the rate of tax imposed by this section shall be the establish rate as provided in subparagraphs (1)(a) and (1)(b) as adjusted each year by subsections (1)(a)3. and (1)(b)2. subsequent to the enactment of this law.*

(d)~~(c) Metropolitan transportation authorities shall utilize~~ Moneys received pursuant to this section *may be used only for state transportation projects in the district in which the tax proceeds are collected and, to the maximum extent feasible, such moneys shall be programmed for use in the county where collected* ~~only as authorized in the Metropolitan Transportation Authority Act~~.

Senator Gordon moved the following amendment which failed:

Amendment 7—On page 184, line 30, through page 185, line 1, insert: *only for state transportation projects in*

Senator Kiser moved the following amendment which was adopted:

Amendment 8—On page 198, line 27, strike "*50*" and insert: *75*

Senator Gardner moved the following amendment which was adopted:

Amendment 9—On page 210, between lines 23 and 24, insert:

Section 114. Section 332.115, Florida Statutes, is created to read:

332.115 Joint project agreement with port district for transportation corridor between airport and port facility.—

(1) An eligible agency may acquire, construct, and operate all equipment, appurtenances, and land necessary to establish, maintain, and operate, or to license others to establish, maintain, operate, or use, a transportation corridor connecting an airport operated by such eligible agency with a port facility, which corridor must be acquired, constructed, and used for the primary purpose of transporting persons and cargo between the airport and the port facility and for the location and operation of lines for the transmission of water, electricity, and petroleum products between the airport and the port facility. However, any such corridor may be established and operated only pursuant to a joint project agreement between an eligible agency as defined in s. 332.004 and a port district as defined in s. 315.02, and such agreement must be approved by the Departments of Transportation and Community Affairs. Before the Department of Transportation approves the joint project agreement, that department must review the public purpose and necessity for the corridor pursuant to s. 337.273(5) and must also determine that the proposed corridor is consistent with the Florida Transportation Plan. Before the Department of Community Affairs approves the joint project agreement, that department must determine that the proposed corridor is consistent with the applicable local government comprehensive plans. An affected local government may provide its comments regarding the consistency of the proposed corridor with its comprehensive plan to the Department of Community Affairs.

(2) A transportation corridor established pursuant to this section shall not be considered an aviation project for purposes of state funding, but shall be considered an aviation project for all other purposes.

(Renumber subsequent section.)

Senator Beard moved the following amendments which were adopted:

Amendment 10—On page 205, line 15, strike "1990" and insert: 1991

Amendment 11—On page 205, lines 24 and 27, and on page 206, line 6, strike "1991" and insert: 1992

Senator Forman moved the following amendment which was adopted:

Amendment 12—On page 181, between lines 17 and 18, insert:

Section 86. Paragraph (p) is added to subsection (3) of section 343.54, Florida Statutes, to read:

343.54 Powers and duties.—

(3) The authority may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of the aforesaid purposes, including, but not limited to, the following rights and powers:

(p) To purchase by directly contracting with local, national, or international insurance companies to provide liability insurance which the authority is contractually and legally obligated to provide,

(Renumber subsequent sections.)

Senator Kiser moved the following amendment which was adopted:

Amendment 13—On page 185, line 3, after the period (.) insert: *However, no revenue from the taxes imposed pursuant to this section in a county shall be expended unless the projects funded with such revenues have been included in the work program adopted pursuant to s. 339.135.*

Senator Jennings moved the following amendment which was adopted:

Amendment 14—On page 41, line 20, strike all of section 19 and insert:

Section 19. Section 338.250, Florida Statutes, is created to read:

338.250 Central Florida Beltway Mitigation.—

(1) The Central Florida Beltway, consisting of the Western Beltway, The Eastern Beltway in Seminole County, the Southern Connector, the Turnpike/Southern Connector Interchange and the Southern Connector Extension, is of regional transportation benefit. It is the intent of the Legislature that any adverse environmental effects of the beltway, or portions thereof, be mitigated through the acquisition of lands and through environmental restoration or creation of projects of corresponding regional environmental benefit. The Legislature finds that the creation and enhancement of wetlands and acquisition of such lands is reasonably necessary for and constitutes appropriate mitigation for securing applicable environmental permits.

(2) Environmental mitigation required as a result of construction of the beltway, or portions thereof, shall be satisfied in the following manner:

(a) For those projects which the Department of Transportation is authorized to construct, funds for environmental mitigation shall be deposited in the Central Florida Beltway Trust Fund created within the department at the time bonds for the specific project are sold. If a road building authority other than the department is authorized to construct the project, funds for environmental mitigation shall be deposited in a mitigation fund account established in the constuction fund for the bond issues. Said account shall be established at the time bond proceeds are deposited into the construction fund for the specific project. These funds shall be provided from bond proceeds and the use of such funds from bond proceeds for mitigation shall be deemed a public purpose. The amount to be provided for mitigation for the Eastern Beltway in Seminole County shall be up to $4 million, the amount to be provided for mitigation for the Western Beltway shall be up to $30.5 million, the amount to be provided for mitigation for the Southern Connector shall be up to $14.28 million, the amount to be provided for mitigation for the Turnpike/Southern Connector Interchange shall be up to $1.46 million and the amount to be provided for mitigation for the Southern Connector Extension shall be in proportion to the amount provided for the Southern Connector based upon the amount of wetlands displaced. To the extent allowed by law, the interest on said funds as earned, after deposit into the Central Florida Beltway Trust Fund, or in a mitigation fund account shall accrue and be paid to the agency responsible for the construction of the appropriate project. Where feasible, mitigation funds shall be used in coordination with funds from the Conservation and Recreation Lands Trust Fund, Save Our Rivers Land Acquisition Program, or from other appropriate sources.

(b) The appropriate road building authority shall prepare and submit to the St. Johns River Water Management District an inventory of wetland resources to be impacted by its plan of construction for the Western Beltway, the Southern Connector, the Turnpike/Southern Connector Interchange, or the Southern Connector Extension. The appropriate road building authority shall prepare and submit to the South Florida Water Management District an inventory of wetland resources within and near the preliminary right-of-way limits that could be impacted by its plan of construction for the Western Beltway. A copy of each plan shall also be submitted to the Department of Environmental Regulation. Said inventory shall list the acreage type and location of the wetlands to be potentially impacted as well as an assessment of the functions presently served by wetlands to potentially be impacted within and near the preliminary right-of-way limits of the beltway project. In the design of the project, wetland impacts which are reasonably avoidable should be avoided.

(c) Immediately upon receipt of the wetland inventory by the St. Johns River Water Management District and the South Florida Water Management District, as appropriate, in consultation with the Central Florida Beltway Project Environmental Advisory Group, shall develop a conceptual plan for the mitigation of such wetland impacts as are shown in the wetland inventory submitted in accordance with paragraph (b) above. Separate mitigation plans, identifying a variety of appropriate mitigation options shall be prepared for each of the segments of the beltway project identified in subsection (1) above. St. Johns River Water Management District will prepare a plan for that portion of the mitigation activities which will occur within its boundaries, as shown in paragraph (d) below, and South Florida Water Management District will prepare the plan for that portion of the mitigation which will occur within its boundaries. The conceptual plan shall identify and propose for acquisition for purposes of preservation, restoration or enhancement lands located in those areas identified in paragraph (d) below and shall be consistent with the criteria outlined therein. Said plan shall identify as many alternative mitigation sites and projects as are practicable, together with a reasonable estimate of the cost of each alternative. The affected district shall give strong consideration to the county in which wetland impacts occur in identifying mitigation locations. The conceptual plan must be completed and approved by the governing board of the appropriate water management district within 90 days of receipt of the wetland inventory required by paragraph (b) above by the water management district. Preference shall be given in the selection of mitigation sites to locations where other entities contribute funding toward acquisition. The water management districts shall be reimbursed for the actual cost of preparation of the mitigation plans from the mitigation funds derived from the sale of bonds only when and if the funds are transferred to the water management district in accordance with this section.

(d) With regard to the Western Beltway, the Southern Connector, the Turnpike/Southern Connector Interchange, and the Southern Connector Extension, where feasible, the mitigation plan shall propose for acquisition lands located within the Wekiva River hydrologic basin, the Lake Apopka hydrologic basin, and the Econlockhatchee River hydrologic basin, and only to the extent provided in paragraph (i), the Upper Kissimmee chain-of-lakes hydrologic basin, Shingle Creek, Boggy Creek or Reedy Creek. The lands identified for acquisition shall be or have the potential to be of regional environmental importance taking account of their proximity to waterbodies and other publicly held lands, the extent and diversity of wildlife on the property, recreational benefits available on the property as well as environmental enhancement, recreation, and wetland creation potential.

(e) Immediately upon approval of the conceptual mitigation plan by the appropriate water management district governing board, the plan shall be sent to the Secretary of the Department of Environmental Regulation for review. Within 30 days of receipt of the plan, the department shall take final action either approving the conceptual plan or referring the plan back to the appropriate water management district with directions as to what portions of the plan are unacceptable and how they may be corrected. Approval of the conceptual mitigation plan shall create a presumption in favor of approval of any wetland mitigation proposed in any permit applications submitted to the department pursuant to paragraph (g) below, provided the wetland impacts proposed are not inconsistent with those reflected in the wetlands inventory submitted in accordance with paragraph (b) above and provided impacts to waters of the state which are reasonably avoidable have been avoided in the design of the project. If the mitigation plan is referred back to a water management district by the department, the water management district shall modify those portions deemed unacceptable by the department and resubmit the plan to the secretary within 30 days of referral. The department shall then have 30 days to take action on the modified mitigation plan.

(f) Upon approval of the conceptual mitigation plans submitted by the water management districts, the department will forward such information and comments to any appropriate federal agencies which also require permitting or approval of wetland mitigation, as is necessary for the appropriate road building authority to obtain such permits or approvals. The department shall seek to obtain formal concurrence of the approved mitigation plan from the federal agencies.

(g) The appropriate road building authority shall make its permit application to the Department of Environmental Regulation which shall be solely responsible for review and final action on such application required by chapters 373 or 403, F.S. No local environmental permits shall be required for construction of the project. Copies of any permit applications filed by an expressway authority shall be provided by that expressway authority to any county government where construction shall take place. Such affected county government shall have 30 days from the

date of its receipt of said permit application to make written comments for same to the department. In reviewing any permit applications submitted pursuant to chapter 373, F.S., the department shall utilize the rule criteria adopted by the water management district in which the construction is proposed. Notwithstanding the provisions of paragraphs (d), (e), and (i), should any federal permitting authority require modification of a mitigation plan approved by the department in order to gain approval of the mitigation plan by said federal authority, or as the result of phased construction of the Beltway project sufficient funds are not available at the time of permitting for the appropriate water management district to carry out the required mitigation, the department shall have the authority to make appropriate modifications, insofar as the total funding amount provided in this legislation would permit, to allow said mitigation funds to be applied within any of the hydrologic basins described in paragraphs (d) and (i) herein.

(h) Should the department or any federal agency require modification to the beltway project plans, the cost of implementing those modifications shall not be funded from the monies provided for wetland mitigation. However, to the extent the required modifications decrease dredge and fill activities, the monies herein required to be provided for wetland mitigation shall be reduced in the same proportion as the acreage of impacted wetlands are reduced in an amount to be determined by the department. No water management district shall be required to expend funds for mitigation in excess of those provided in paragraph (a).

(i) Mitigation funds derived from the Western Beltway in the amount of $7 million and mitigation funds derived from the Southern Connector in the amount of $3 million shall be used to supplement the acquisition of land within the Upper Kissimmee chain-of-lakes hydrologic basin, Shingle Creek, Boggy Creek or Reedy Creek. The South Florida Water Management District shall consult with the Central Florida Beltway Environmental Advisory Group in selecting those lands to be acquired under this paragraph.

(j) A decision by Seminole County Expressway Authority to enter into the Central Florida Beltway Mitigation program established in this section shall be at the sole discretion of the Seminole County Expressway Authority. If the authority elects this participation, the selection of mitigation lands shall be made pursuant to paragraph (c), and contracts to purchase or the filing of declarations of taking pursuant to chapter 73 or chapter 74 shall take place within 15 months after the effective date of project authorization. The St. Johns River Water Management District, in consultation with the Seminole County Expressway Authority and affected water management districts, shall select lands within the Lake Jessup/St. Johns River or Econlockhatchee River hydrologic basins. The lands selected shall be of regional environmental importance based upon criteria which include proximity to waterbodies and other publicly held lands, wildlife and endangered species value, recreational benefits, and the potential for wetlands creation and enhancement.

(k) The affected water management district shall serve as acquisition agent in acquiring lands necessary to implement the mitigation plan once it is approved. The affected water management district may contract with, or otherwise enter into agreements with, the agency responsible for the right-of-way acquisition of the beltway for the provision of appraisals of mitigation projects. Such appraisals may be made by the agency responsible for the right-of-way acquisition of the beltway either in conjunction with, or separate from, appraisals of property necessary for right-of-way acquisition. Title to lands which are acquired by a water management district as mitigation lands shall be held by the affected water management district and may be transferred, if appropriate for management purposes, to any other public or governmental agency.

(l) Management plans for mitigation lands shall be conditions of the permit and shall be prepared and implemented by the agency holding title to the lands in consultation with the Environmental Advisory Group to the Central Florida Beltway Project. The management plan shall be submitted to the Department of Environmental Regulation for final approval.

(m) Approval of the mitigation plan by the Department of Environmental Regulation and the water management district and approval and issuance of any necessary permits by the Department of Environmental Regulation and by the U. S. Corps of Engineers must occur prior to the commencement of the construction of the project. Upon the issuance of the permits, the trustee of the Central Florida Beltway Trust Fund or the applicable road building authority shall transfer to the appropriate water management district the monies provided for in paragraph (a) above in accordance with the schedule of payments mutually adopted by both parties. The appropriate water management district shall be responsible for the implementation of the mitigation plan. All bond proceeds disbursed to the water management district shall be invested and disbursed by said district in accordance with all applicable state and federal laws and in accordance with the terms of the trust indenture or bond resolutions for the bond issue from which such proceeds were obtained.

(n) The St. Johns River Water Management District and the South Florida Water Management District shall have full authority to acquire those lands and implement those projects identified in the mitigation plan prepared by the appropriate water management district. This authority shall be in addition to that conferred under s. 373.139, F.S.

(o) All funds deposited in the Central Florida Beltway Trust Fund or in a mitigation fund account shall be disbursed and invested in accordance with applicable state and federal law and in accordance with the terms of the trust indenture or bond resolutions for the bond issue from which such proceeds were obtained.

(p) In the event that the applicable water management district and the Department of Environmental Regulation fail to timely adopt the conceptual mitigation plans as herein contemplated, or in the event that such plans are not approved by the appropriate federal agencies, a road building authority on any of the Central Florida Beltway projects as herein defined may then make application for necessary permits to the appropriate agencies which may be accompanied by conventional mitigation plans, and proceed as if this act did not exist.

(q) Nothing in this act shall, in any way, prevent a road building authority from electing not to build a project of the Central Florida Beltway and thereby using the bond proceeds in accordance with the applicable trust indenture or bond resolutions. In such event, if monies have been deposited in the Central Florida Beltway Trust Fund, the trustee shall forthwith disburse the monies together with all accrued interest to the appropriate road building authority for use in accordance with the trust indenture or bond resolutions.

Section 20. Section 372.074, Florida Statutes, is created to read:

372.074 Fish and Wildlife Habitat Trust Fund.—

(1) There is established within the Game and Fresh Water Fish Commission the Fish and Wildlife Habitat Trust Fund for the purpose of acquiring and managing lands important to the conservation of fish and wildlife.

(a) Title to all lands acquired pursuant to this section shall be vested in the Board of Trustees of the Internal Improvement Trust Fund. The Game and Fresh Water Fish Commission or its designee shall manage such lands for the primary purpose of maintaining and enhancing their habitat value for fish and wildlife. Other uses may be allowed that are not contrary to this purpose.

(b) Land acquisition pursuant to this section shall be voluntary, negotiated acquisition and is subject to the acquisition procedures of s. 253.025.

(c) Acquisition costs payable from the fund shall include purchase prices and costs and fees associated with title work, surveys, and appraisals required to complete an acquisition.

(2) Monies which may be deposited into the trust fund may be from donations, grants, development of regional impact wildlife mitigation contributions, or legislative appropriations.

(Renumber subsequent section.)

Senator Gordon moved the following amendment which failed:

Amendment 15—On page 130, line 28, through page 137, line 28, strike all of said lines

Senator Jennings moved the following amendment which was adopted:

Amendment 16—In title, on page 2, line 30, after "mitigation;" insert: providing legislative intent; providing a procedure for environmental mitigation required as a result of construction of the beltway; amending s. 372.074, F.S.; establishing a Fish and Wildlife Habitat Trust Fund within the Game and Fresh Water Fish Commission; providing for the acquisition and management of lands for the conservation of fish and wildlife; providing that title to such lands be vested with the Board of Trustees of the Internal Improvement Trust Fund;

Senator Gardner moved the following amendment which was adopted:

Amendment 17—In title, on page 13, line 21, after the semicolon (;) insert: creating s. 332.115, F.S.; authorizing political subdivisions or authorities operating public-use airports to enter joint project agreements with port districts for the establishment and operation of transportation corridors between the airports and port facilities, subject to the approval of the Departments of Transportation and Community Affairs;

On motion by Senator Beard, by two-thirds vote CS for SB 1316 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35

Mr. President	Davis	Johnson	Scott
Bankhead	Deratany	Kiser	Stuart
Beard	Dudley	Langley	Thomas
Brown	Forman	Malchon	Thurman
Bruner	Gardner	Margolis	Walker
Casas	Girardeau	McPherson	Weinstein
Childers, D.	Grant	Meek	Weinstock
Childers, W. D.	Grizzle	Myers	Woodson-Howard
Crenshaw	Jennings	Peterson	

Nays—4

Diaz-Balart	Gordon	Plummer	Souto

On motion by Senator Beard, the rules were waived and **CS for SB 1316** was ordered immediately certified to the House.

On motions by Senator Langley, by two-thirds vote CS for HB 873 was withdrawn from the Committees on Commerce and Finance, Taxation and Claims.

On motion by Senator Langley—

CS for HB 873—A bill to be entitled An act relating to limited partnerships; amending s. 620.102, F.S.; providing a definition; amending s. 620.103, F.S.; specifying requirements for the name of a limited partnership; amending s. 620.104, F.S.; providing that a reservation of a name of a limited partnership may not be renewed; creating s. 620.1051, F.S.; providing requirements for change of registered office or registered agent or change of address; amending s. 620.114, F.S.; providing for execution of required certificates or statements; amending s. 620.116, F.S.; providing that only one copy of certain certificates need be filed; amending s. 620.168, F.S.; limiting the names that may be used by foreign limited partnerships; amending s. 620.169, F.S.; providing for registration of foreign limited partnerships; amending s. 620.172, F.S.; deleting references to certificates of registration for foreign limited partnerships; deleting references to multiple copies; providing that an endorsed application constitutes proof of a certificate of authority to transact business; amending s. 620.177, F.S.; providing that an annual report is an application for renewal of certificate of authority; specifying expiration dates of certificates of authority; providing for proof of compliance with time requirements; amending s. 620.178, F.S.; providing additional circumstances for revocation of authority of a limited partnership to transact business in the state; providing for filing of an annual report as an application for reinstatement; creating s. 620.1835, F.S.; authorizing the Department of State to propound interrogatories to a limited partnership; providing general powers of the Department of State; reenacting ss. 620.115 and 620.179(2), F.S., to incorporate amendments made by the act in references to ss. 620.114 and 620.178, F.S.; repealing s. 620.109(2)(a)5., F.S., relating to change of address of the office or the name or address of the agent; providing an effective date.

—a companion measure, was substituted for SB 2468 and read the second time by title. On motion by Senator Langley, by two-thirds vote CS for HB 873 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Childers, D.	Dudley	Grizzle
Bankhead	Childers, W. D.	Forman	Jennings
Beard	Crenshaw	Gardner	Johnson
Brown	Davis	Girardeau	Kiser
Bruner	Deratany	Gordon	Langley
Casas	Diaz-Balart	Grant	Malchon
Margolis	Peterson	Stuart	Weinstein
McPherson	Plummer	Thomas	Weinstock
Meek	Scott	Thurman	Woodson-Howard
Myers	Souto	Walker	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

On motion by Senator Weinstock, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB's 790 and 1480 with amendments and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB's 790 and 1480—A bill to be entitled An act relating to protection of persons from abuse, neglect, and exploitation; amending s. 415.102, F.S.; redefining the term "indicated reports" as "undetermined reports" as the term is used in provisions relating to the abuse, neglect, and exploitation of aged persons and disabled adults; amending s. 415.103, F.S.; revising a procedure for expunging certain records of the abuse, neglect, or exploitation of aged persons and disabled adults from the central abuse registry and tracking system within the Department of Health and Rehabilitative Services; revising procedures for classifying such reports as confirmed; amending s. 415.104, F.S.; requiring the aging and adult services district staffs of the department to complete investigations of reported abuse, neglect, or exploitation within a specified time period; requiring the department to classify certain such reports pursuant to an order rendered in an administrative hearing; amending s. 415.107, F.S., relating to confidentiality of reports and records; conforming cross-references; amending s. 415.503, F.S.; redefining the term "indicated reports" as "undetermined reports" as the term is used in provisions relating to abused or neglected children; amending s. 415.504, F.S.; revising provisions used by the Department of Health and Rehabilitative Services to classify certain child abuse and neglect reports prior to an administrative hearing or opportunity for such hearing; requiring the department to provide additional information in notices to certain alleged perpetrators of child abuse or neglect; providing requirements for administrative hearings; requiring confirmed reports of child abuse or neglect to be placed in the central abuse registry and tracking system; conforming terminology; amending s. 415.505, F.S.; requiring the department that conducts a child protective investigation to classify its report of such investigation pursuant to an order rendered in an administrative hearing; requiring the expunction of identifying information within unfounded reports of abuse, neglect, and exploitation from the central abuse registry and tracking system and other computer systems and records of the department; providing an effective date.

House Amendment 1—On page 2, line 25, strike everything after the enacting clause and insert:

Section 1. Section 415.102, Florida Statutes, is amended to read:

415.102 Definitions of terms used in ss. 415.101-415.113.—As used in ss. 415.101-415.113, the term:

(1) "Abuse" means the *nonaccidental* infliction of physical or psychological injury to an aged person or disabled adult *by a relative, caregiver, or adult household member*, or the failure of a caregiver to take reasonable measures to prevent the occurrence of physical or psychological injury to an aged person or disabled adult.

(2) "Abused person" means any aged person or disabled adult who has been subjected to abuse or whose condition suggests that he has been abused.

(3) "Aged person" means a person 60 years of age or older who is suffering from the infirmities of aging as manifested by organic brain damage, advanced age, or other physical, mental, or emotional dysfunctioning to the extent that the person is impaired in his ability to adequately provide for his own care or protection.

(4) "Caregiver" means a person or persons responsible for the care of an aged person or disabled adult. "Caregiver" includes, but is not limited to, relatives, adult children, parents, neighbors, day care personnel, adult foster home sponsors, personnel of public and private institutions and facilities, nursing homes, adult congregate living facilities, and state institutions who have voluntarily assumed the care of an aged person or disabled adult or have been entrusted with the care of an aged person or disabled adult on a temporary or permanent basis.

(5) "Confirmed report" means a *proposed confirmed report that has been determined to be valid after a hearing under s. 415.103(3)(d)5. or a proposed confirmed report for which the alleged perpetrator has failed to request amendment or expunction within the time allotted for such request under s. 415.103(3)(d)3.* ~~report made pursuant to s. 415.103 when an adult protective services investigation determines that abuse, neglect, or exploitation has occurred and the perpetrator is identified.~~

(6) "Criminal justice agency" means any court, any law enforcement agency, or any government agency or subunit thereof as defined pursuant to s. 943.045(10).

(7) "Department" means the Department of Health and Rehabilitative Services.

(8) "Disabled adult" means a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations which restrict his ability to perform the normal activities of daily living.

(9) "Exploitation" means, but is not limited to, the improper or illegal use or management of an aged person's or disabled adult's funds, assets, or property or the use of an aged person's or disabled adult's power of attorney or guardianship for another's or one's own profit or advantage.

(10) "Facility" means, but is not limited to, any public or private hospital, training center, state institution, clinic, nursing home, adult congregate living facility, adult foster home, adult day care center, or other program or service for aged persons or disabled adults.

(11) "*Indicated-perpetrator undetermined* ~~Indicated~~ report" means a report made pursuant to s. 415.103 when an adult protective services investigation determines that some indication of abuse, neglect, or exploitation exists; or a report which contains indicators that abuse, neglect, or exploitation has occurred.

(12) "Lacks capacity to consent" means an impairment by reason of mental illness, developmental disability, organic brain disorder, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause to the extent that an aged person or disabled adult lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person.

(13) "Neglect" means the failure or omission on the part of the caregiver or aged person or disabled adult to provide the care and services necessary to maintain the physical and mental health of an aged person or disabled adult, including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, that a prudent person would deem essential for the well-being of an aged person or disabled adult. *Neglect is repeated conduct or a single incident of carelessness which produces or could reasonably be expected to result in serious physical or mental harm or a substantial risk of death.*

(14) "Proposed confirmed report" means a report made pursuant to s. 415.103 when adult protective investigation alleges that abuse or neglect or exploitation occurred and which identifies the alleged perpetrator.

(15)~~(14)~~ "Protective services" means those services, the objective of which is to protect an aged person or disabled adult from abuse, neglect, or exploitation. Such protective services include, but are not limited to:

(a) Evaluation of the need for protective services.

(b) Casework for the purpose of planning and providing needed services.

(c) Obtaining financial benefits to which the aged person or disabled adult is entitled.

(d) Securing medical and legal services.

(e) Maintenance of the aged person or disabled adult in his own home through the provision of protective services.

(f) Assistance in obtaining out-of-home services, including respite care, emergency housing, and placement settings, as necessary.

(g) Seeking protective placement, as necessary.

(16)~~(15)~~ "Unfounded report" means a report made pursuant to s. 415.103 when an adult protective services investigation determines that no indication of abuse, neglect, or exploitation exists.

Section 2. Subsection (3) of section 415.103, Florida Statutes, as amended by section 16 of chapter 88-337, Laws of Florida, and by section 27 of chapter 89-294, Laws of Florida, is amended to read:

415.103 Mandatory reporting of abuse, neglect, or exploitation of aged persons or disabled adults; mandatory reports of death; central abuse registry and tracking system; immunity from liability.—

(3) CENTRAL ABUSE REGISTRY AND TRACKING SYSTEM.—

(a) The department shall establish and maintain a central abuse registry and tracking system which shall receive all reports made pursuant to this section in writing or through a single statewide toll-free telephone number which any person may use to report known or suspected abuse, neglect, or exploitation of an aged person or disabled adult at any hour of the day or night, any day of the week. The central abuse registry and tracking system shall be operated in such a manner as to enable the department to:

1. Immediately identify and locate prior reports or cases of adult abuse, neglect, or exploitation through the department's automated tracking system.

2. Monitor and evaluate the effectiveness of the department's program for reporting, investigating, and classifying suspected abuse, neglect, or exploitation of aged persons or disabled adults, and the provision of protective services to such persons through the development and analysis of statistical and other information, and to report thereon.

3. Track critical steps in the investigative process to ensure compliance with all requirements for all reports.

4. Maintain and produce aggregate statistical reports for monitoring patterns of abuse, neglect, or exploitation of aged persons or disabled adults.

5. Serve as a resource for the evaluation, management, and planning of preventive and remedial services for aged persons or disabled adults who have been subject to abuse, neglect, or exploitation.

(b) Upon receiving an oral or written report of known or suspected abuse, neglect, or exploitation of an aged person or disabled adult, the central abuse registry and tracking system shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse registry and tracking system shall notify the department's designated aging and adult services district staff responsible for protective investigations immediately to ensure prompt initiation of an onsite investigation. For reports not requiring an immediate onsite protective investigation, the central abuse registry and tracking system shall notify the department's designated aging and adult services district staff responsible for protective investigations in sufficient time to allow for an investigation to be commenced within 24 hours. At the time of notification of district staff with respect to the report, the central abuse registry and tracking system shall also provide information on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.

(c)1. Upon commencing an investigation, the adult protective investigator shall inform any subject of the investigation of the following:

a. The names of the investigators and identifying credentials from the department.

b. The purpose of the investigation.

c. The possible consequences of the investigation.

d. How the information provided by the subject may be used.

e. The description of the risk assessment process and placement of an adult.

f. That the aged or disabled adult named as the victim, the named victim's guardian or guardians, an alleged perpetrator named in a proposed confirmed report, and legal counsel for any of the aforementioned persons have a right to a copy of the report at the conclusion of the investigation.

g. That persons who are entitled to receive a copy of the report also have the right to submit a written comment or rebuttal which may be made a part of the record.

h. That subjects may have additional appeal rights which will be explained in writing when appropriate and necessary at the conclusion of the investigation.

i. The telephone number and name of a department employee available to answer questions.

2.~~(c)~~ Upon completion of its investigation, the designated aging and adult services district staff of the department shall classify reports either as "*proposed* confirmed," *indicated-perpetrator undetermined,* "~~indicated,~~" or "unfounded." *In the case of proposed confirmed reports* ~~At this time~~, the department shall notify the victim named in the report, the guardian or guardians or the caregiver of the aged person or disabled adult named as the victim, and the alleged perpetrator, if other than the guardian or guardians or the caregiver, of the completion of the investigation of the report, the classification of the report, and the right to ask for amendment or expunction pursuant to paragraph (d). All identifying information in the central abuse registry and tracking system or other computer systems or records that is related to an unfounded report shall be expunged *within 30 days* ~~1 year~~ after the case is classified as "unfounded." All identifying information in the central abuse registry and tracking system related to an *indicated-perpetrator undetermined* ~~indicated~~ report shall be expunged from the central abuse registry and tracking system 7 years after the receipt date of the last *indicated-perpetrator undetermined* ~~indicated~~ report concerning any person named in the report. Computer records of a confirmed report shall be retained for 50 years from the receipt date of the report. All information, other than identifying information, related to an *indicated-perpetrator undetermined* ~~indicated~~ or unfounded report at the time of expunction shall be disposed of in a manner deemed appropriate by the department and pursuant to ss. 119.041 and 257.36(7). Unfounded reports shall only be indexed by the name of the aged person or disabled adult to detect patterns of abuse, neglect, or exploitation. Persons named in unfounded or *indicated-perpetrator undetermined* ~~indicated~~ reports shall not be identified as perpetrators. All information in the records of the central abuse registry and tracking system or other computer systems or records *is* ~~shall be~~ subject to the confidentiality provisions in s. 415.107.

(d)1. Where it is shown that the record is inaccurate or inconsistent with ss. 415.101-415.113, the department shall amend or expunge the record. The department shall notify the victim and the alleged perpetrator of what amendment is made to the record or of the expunction of the record.

2. Subsequent to the completion of the department's investigation, the victim or alleged perpetrator *named in* ~~of~~ a *proposed* confirmed report may request the secretary to amend or expunge the case record and all identifying information in the central abuse registry and tracking system or other computer systems or records pertaining to that report on the grounds that the record is inaccurate or is being maintained in a manner inconsistent with ss. 415.101-415.113.

3. Notice to the alleged perpetrator *named in* ~~of~~ a *proposed* confirmed report *must* ~~shall~~ state ~~that~~:

a. The facts which are alleged to support the proposed report classification and the nature of the abuse, neglect, or exploitation proposed to be confirmed by the department;

b.~~a.~~ *That the department intends to classify* the report ~~has been classified~~ as confirmed;

c.~~b.~~ *That* the alleged perpetrator *named in* ~~of~~ a confirmed report may be disqualified from working with children or the developmentally disabled or from working in sensitive positions involving the care of children, the developmentally disabled, disabled adults, or aged persons;

d.~~c.~~ *That* the alleged perpetrator may request amendment or expunction of the *proposed* confirmed report, if the alleged perpetrator does not agree with the classification;

e.~~d.~~ *That* the request by the alleged perpetrator for amendment or expunction of the *proposed* confirmed report must be received by the department within 30 days after the alleged perpetrator receives notice of the *proposed* classification of the report;

f.~~e.~~ *That* the alleged perpetrator *may* ~~can~~ obtain more information by calling the person whose name and telephone number are provided in the notice; and

g.~~f.~~ *That* the failure to timely ask for amendment or expunction means the alleged perpetrator agrees not to contest the *proposed* classification of the report.

Notice to the alleged perpetrator shall be sent by certified mail.

4. *If the alleged perpetrator fails* ~~Failure~~ to respond within the time specified in subparagraph 3., *he may* ~~means that the alleged perpetrator agrees~~ not ~~to~~ contest the *proposed* classification of the report, *and the report must be classified as confirmed.* The alleged perpetrator may, within 1 year of the classification of the report as confirmed, request the department to set aside *the* ~~a~~ confirmed report *if he shows* ~~where it can be shown~~ that the failure to ask for amendment or expunction was due to excusable neglect or fraud. The standard for excusable neglect or fraud shall be as provided in the Florida Rules of Civil Procedure.

5. If the alleged perpetrator *named in* ~~of~~ a *proposed* confirmed report asks for amendment or expunction, the secretary may amend or expunge the record. If the secretary refuses or does not act within 30 days after receiving such a request, the alleged perpetrator *named in* ~~of~~ a *proposed* confirmed report *has* ~~shall have~~ the right to an administrative hearing to *determine the classification* ~~contest whether the record~~ of the report ~~should be amended or expunged~~. At the chapter 120 hearing, the department shall prove by a preponderance of evidence that the perpetrator committed the abuse, neglect, or exploitation. The department's investigative report shall be considered competent evidence at the chapter 120 hearing, and the technical rules of evidence shall not exclude such report. If the secretary refuses to amend or expunge and the alleged perpetrator *named in* ~~of~~ a *proposed* confirmed report fails to timely ask for an administrative hearing, ~~the failure to timely ask shall mean that~~ the *alleged* perpetrator *may* ~~agrees~~ not ~~to~~ contest the secretary's decision and the findings of the *proposed* confirmed report of abuse, neglect, or exploitation. If the secretary refuses to amend or expunge and the alleged perpetrator asks for an administrative hearing and the department's classification is upheld, the report *must be classified* ~~shall remain~~ as confirmed *in the central abuse registry and tracking system.* Any person who is named in an *indicated-perpetrator undetermined* ~~indicated~~ report shall not ~~have the right to~~ challenge the department's classification system through the department or through an administrative hearing under chapter 120.

6. The confidentiality of the abuse or neglect report shall, to the extent possible, be maintained during the administrative hearing process. The administrative hearing shall be closed, the administrative files shall be closed and not disclosed to the public under s. 119.07(1), and any identifying information in the recommended or final order shall be deleted prior to publishing pursuant to chapter 120.

Section 3. Subsections (1) and (2) of section 415.104, Florida Statutes, are amended, and subsection (7) is added to said section, to read:

415.104 Protective services investigations of cases of abuse, neglect, or exploitation of aged persons or disabled adults; transmittal of records to state attorney.—

(1) The department shall, upon receipt of a report alleging abuse, neglect, or exploitation of an aged person or disabled adult, commence, or cause to be commenced within 24 hours, a protective services investigation of the facts alleged therein. If, upon arrival of the protective investigator at the scene of the incident, a caregiver refuses to allow the department to begin a protective services investigation or interferes with the department's ability to conduct such an investigation, the appropriate law enforcement agency shall be contacted to assist the department in commencing the protective services investigation. If, during the course of the investigation, the department has reason to believe that the abuse, neglect, or exploitation is perpetrated by a second party, the appropriate criminal justice agency and state attorney shall be orally notified in order

that such agencies may begin a criminal investigation concurrent with the protective services investigation of the department. *The alleged perpetrator shall be entitled to legal representation, at his or her expense, during questioning in connection with the investigation, but the absence of counsel shall not prevent the department from proceeding with other aspects of the investigation including interviews with other persons. Legal counsel shall be bound by the confidentiality provisions of s. 415.107. The department shall make a preliminary written report to the criminal justice agencies within 5 working days of the oral report. The department shall, within 24 hours after receipt of the report, notify the appropriate human rights advocacy committee, or long-term care ombudsman council, when appropriate, that an alleged abuse, neglect, or exploitation perpetrated by a second party has occurred. Notice to the human rights advocacy committee or long-term care ombudsman council may be accomplished orally or in writing and shall include the name and location of the aged person or disabled adult alleged to have been abused, neglected, or exploited and the nature of the report. For each report it receives, the department shall perform an onsite investigation to:*

(a) Determine that the person is an aged person or disabled adult as defined in s. 415.102.

(b) Determine the composition of the family or household, including the name, address, date of birth, social security number, sex, and race of each aged person or disabled adult named in the report; any others in the household or in the care of the caregiver, or any other persons responsible for the aged person's or disabled adult's welfare; and any other adults in the same household.

(c) Determine whether there is an indication that any aged person or disabled adult is abused, neglected, or exploited, including a determination of harm or threatened harm to any aged person or disabled adult; the nature and extent of present or prior injuries, abuse, or neglect, and any evidence thereof; and a determination as to the person or persons apparently responsible for the abuse, neglect, or exploitation, including the name, address, date of birth, social security number, sex, and race of each person to be classified as an alleged perpetrator in a *proposed* confirmed report. An alleged perpetrator *named in* ~~of~~ a *proposed* confirmed report of abuse, neglect, or exploitation shall cooperate in the provision of the required data for the central abuse registry and tracking system to the fullest extent possible.

(d) Determine the immediate and long-term risk to each aged person or disabled adult through utilization of standardized risk assessment instruments.

(e) Determine the protective, treatment, and ameliorative services necessary to safeguard and ensure the aged person's or disabled adult's well-being and cause the delivery of those services through the early intervention of the departmental worker responsible for service provision and management of identified services.

(2) No later than 30 days *after receiving the initial report, the designated aging and adult services staff of the department shall complete its investigation and classify the report as proposed confirmed, indicated-perpetrator undetermined, or unfounded. These findings must be reported to the department's central abuse registry and tracking system. For proposed confirmed reports,* after receiving the *final administrative order rendered in a hearing requested pursuant to s. 415.103(3)(d) or after the 30-day period during which an alleged perpetrator may request such a hearing has expired,* ~~initial report, the designated aging and adult services district staff of~~ the department shall *classify* ~~complete its investigation; determine whether~~ the *report of* ~~reported~~ abuse, neglect, or exploitation *as* ~~was~~ "confirmed," *indicated-perpetrator undetermined,* ~~"indicated,"~~ or "unfounded"; and *shall* report its findings to the department's central abuse registry and tracking system, *and must do so in accordance with the final order if a hearing was held.*

(7) The department shall not use a warning, reprimand, or disciplinary action against an employee found in that employee's personnel records as the sole basis for a finding of abuse, neglect, or exploitation.

Section 4. Subsections (2) and (5) of section 415.107, Florida Statutes, are amended to read:

415.107 Confidentiality of reports and records in cases of abuse, neglect, or exploitation of aged persons or disabled adults.—

(2) Access to such records, excluding the name of the reporter, which shall be released only as provided in subsection (4), *shall depend on the classification of the report, and* shall be granted only to the following persons, officials, and agencies. *Access to unfounded reports shall be limited to the persons and for the purposes stated in paragraphs (a), (b), (c), (g), and (h). Access to indicated-perpetrator undetermined reports shall be limited to the persons and for the purposes stated in paragraphs (a), (b), (c), (e), (f), (g), (h), and (i). Access to proposed confirmed and confirmed reports shall be limited to the persons and for the purposes stated in paragraphs (a) through (k), as follows:* ~~for the following purposes:~~

(a) Employees or agents of the department responsible for carrying out adult or child protective services investigations, ongoing adult or child protective services, or licensure or approval of nursing homes, adult congregate living facilities, adult day care centers, adult foster homes, home care for the elderly, hospices, or other facilities used for the placement of aged persons or disabled adults.

(b) A criminal justice agency investigating a report of known or suspected abuse, neglect, or exploitation of an aged person or disabled adult.

(c) The state attorney of the judicial circuit in which the aged person or disabled adult resides or in which the alleged abuse, neglect, or exploitation occurred.

(d) Any aged person or disabled adult or perpetrator who is the subject of a *proposed confirmed or confirmed* report or the subject's guardian, caregiver, or legal counsel.

(e) A court, by subpoena, upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access shall be limited to inspection in camera, unless the court determines that public disclosure of the information contained in such records is necessary for the resolution of an issue then pending before it.

(f) A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.

(g) Any appropriate official of the human rights advocacy committee or long-term care ombudsman council investigating a report of known or suspected abuse, neglect, or exploitation of an aged person or disabled adult.

(h) Any appropriate official of the department responsible for:

1. Administration or supervision of the department's program for the prevention, investigation, or treatment of adult abuse, neglect, or exploitation when carrying out his official function; or

2. Taking appropriate administrative action concerning an employee of the department alleged to have perpetrated institutional abuse, neglect, or exploitation of an aged person or disabled adult.

(i) Any person engaged in bona fide research or auditing. However, no information identifying the subjects of the report shall be made available to the researcher ~~unless such information is absolutely essential to the research purpose, suitable provision is made to maintain the confidentiality of the data, and the department has given written approval~~.

(j) The Division of Administrative Hearings for purposes of any administrative challenge relating to *a proposed confirmed or confirmed* ~~the~~ report.

(k) The Department of Professional Regulation when taking disciplinary action against a licensee for actions which resulted in a confirmed report of abuse, neglect, or exploitation which has been upheld following a chapter 120 hearing or a waiver of such proceedings.

(5)(a) The department shall search its central abuse registry and tracking system records pursuant to the requirements of ss. 110.1127, 393.0655, 394.457, 396.0425, 397.0715, 400.478, 400.497, 402.305(1), 402.3055, 402.313, 409.175, 409.176, 464.008, and 959.06 for the existence of a confirmed report made on the personnel as defined in the foregoing provisions. The search shall also include indicated reports prior to July 1, 1987. Reports prior to 1978 shall not be included. If the search reveals an indicated report prior to July 1, 1987, the department shall review the report to determine whether the indicated report shall *be* ~~remain~~ classified as "indicated-*perpetrator undetermined*" or shall be classified as "*proposed* confirmed" according to the definitions in s. 415.102. If the report remains classified as "indicated-*perpetrator undetermined*," the individual shall not be disqualified. If the report is classified as "con-

firmed," the department shall notify the individual according to the provisions in s. 415.103(3)(d)*3.* The department shall report the existence of any confirmed report and advise the authorized licensing agency, applicant for licensure, or other authorized agency or person of the results of the search *and*, the date of the report.~~, whether 30 days have elapsed for requests for expunction or amendment, failure of the alleged perpetrator to respond pursuant to s. 415.103(3)(d), and results of any hearing conducted by the secretary and any subsequent administrative hearing. The department shall not release any information on unfounded or indicated reports.~~ Prior to a search being conducted, the department or its designee shall notify such person that an inquiry will be made. The department shall notify each person for whom a search is conducted of the results of the search upon request.

(b) The department shall, upon receipt of an application of a person applying for an initial license or renewal of a license for a facility to provide day or residential care for aged persons or disabled adults, search its central abuse registry and tracking system for the existence of a confirmed report of child or adult abuse, neglect, or exploitation as defined in ss. 415.102(1), (5), (9), ~~(11),~~ and (13) and 415.503(3) *and*, (6)~~, and (10)~~ and advise the licensing agent of any report found and the results of the investigation conducted pursuant thereto, including whether 30 days have elapsed for requests for expunction or amendment, failure of the perpetrator to respond pursuant to s. 415.103(3)(d) or s. 415.504(4)(d), and results of any hearing conducted by the secretary and any subsequent administrative hearing held on the report. Such a report shall disqualify an individual from licensure, but the department may grant an exemption from disqualification if the department has clear and convincing evidence to support a reasonable belief that the person is of good character so as to justify an exemption. The person shall bear the burden of setting forth sufficient evidence of rehabilitation, including, but not limited to, the circumstances surrounding the incident, the nature of the harm occasioned to the victim, and the history of the person since the incident, or such other circumstances that shall by the aforementioned standards indicate that the person will not present a danger to the safety or well-being of aged persons or disabled adults. The decision of the department regarding an exemption may be contested through a hearing pursuant to chapter 120. A disqualified person may also request amendment or expunction of the report pursuant to s. 415.103(3)(d). For purposes of a licensure application, these remedies must be requested within 30 days of notification, or be deemed waived. The department shall notify any individual disqualified from licensure of the right to appeal that disqualification, of remedies available, and of the time limit for requesting such remedies pursuant to the provisions of this subsection. The department may issue no license until screening procedures and, if necessary, administrative remedies are complete. However, a conditional or provisional license may be issued in the case of an existing licensed facility for only that time necessary to complete the above screening procedures and administrative remedies. No application for licensure shall be deemed complete until all requested screening information has been correctly submitted pursuant to department procedure.

Section 5. Section 415.503, Florida Statutes, is amended to read:

415.503 Definitions of terms used in ss. 415.502-415.514.—As used in ss. 415.502-415.514:

(1) "Abused or neglected child" means a child whose physical or mental health or welfare is harmed, or threatened with harm, by the acts or omissions of the parent or other person responsible for the child's welfare *or, for purposes of reporting requirements, by any person.*

(2) "Child" means any person under the age of 18 years.

(3) "Child abuse or neglect" means harm or threatened harm to a child's physical or mental health or welfare by the acts or omissions of *a* ~~the~~ parent, *adult household member,* or other person responsible for the child's welfare *or, for purposes of reporting requirements, by any person.*

(4) "Guardian advocate" means a person appointed by the court to act on behalf of a drug dependent newborn pursuant to the provisions in ss. 415.5082-415.5089.

(5) "Child protection team" means a team of professionals established by the department to receive referrals from the protective investigators and protective supervision staff of the children, youth, and families program and to provide specialized and supportive services to the program in processing child abuse and neglect cases. A child protection team shall provide consultation to other programs of the department and other persons on child abuse and neglect cases pursuant to s. 415.5055(1)(g).

(6) "Confirmed report" means a *proposed confirmed report that has been determined to be valid after a hearing under s. 415.504(4)(d)5. or a proposed confirmed report for which the alleged perpetrator has failed to request amendment or expunction within the time allotted for such request under s. 415.504(4)(d)3.* ~~report made pursuant to s. 415.504 when a child protective investigation determines that abuse or neglect has occurred and the perpetrator is identified.~~

(7) "Department" means the Department of Health and Rehabilitative Services.

(8) "Guardian ad litem" means a responsible adult who is appointed by the court to represent the best interests of a child in a proceeding as provided for by law, including, but not limited to, chapter 39 and this chapter, who shall be a party to any judicial proceeding as a representative of the child, and who shall serve until discharged by the court.

(9) "Harm" to a child's health or welfare can occur when the parent or other person responsible for the child's welfare:

(a) Inflicts, or allows to be inflicted, upon the child physical or mental injury. Such injury includes, but is not limited to:

1. Injury sustained as a result of excessive corporal punishment;

2. Physical dependency of a newborn infant upon any drug controlled in Schedule I of s. 893.03, upon any drug controlled in Schedule II of s. 893.03 with the exception of drugs administered in conjunction with a detoxification program as defined in s. 397.021, or upon drugs administered in conjunction with medically-approved treatment procedures; provided that no parent of such a newborn infant shall be subject to criminal investigation solely on the basis of such infant's drug dependency;

(b) Commits, or allows to be committed, sexual battery, as defined in chapter 794, against the child or commits, or allows to be committed, sexual abuse of a child;

(c) Exploits a child, or allows a child to be exploited, as provided in s. 450.151;

(d) Abandons the child;

(e) Fails to provide the child with supervision or guardianship by specific acts or omissions of a serious nature requiring the intervention of the department or the court; ~~or~~

(f) Fails to supply the child with adequate food, clothing, shelter, or health care, although financially able to do so or although offered financial or other means to do so; however, a parent or other person responsible for the child's welfare legitimately practicing his religious beliefs, who by reason thereof does not provide specified medical treatment for a child, may not be considered abusive or neglectful for that reason alone, but such an exception does not:

1. Eliminate the requirement that such a case be reported to the department;

2. Prevent the department from investigating such a case; or

3. Preclude a court from ordering, when the health of the child requires it, the provision of medical services by a physician, as defined herein, or treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization; *or.*

(g) Exposes a child from birth to 5 years of age to drugs. Exposure to drugs is established by a preponderance of evidence that the mother used a controlled substance during pregnancy or that the parent or parents demonstrate continued chronic and severe use of a controlled substance and as a result of such exposure the child exhibits any of the following:

1. Abnormal growth.

2. Abnormal neurological patterns.

3. Abnormal behavior problems.

4. Abnormal cognitive development.

For the purposes of this paragraph, "controlled substance" means any drug controlled in Schedule I or Schedule II of s. 893.03.

(10) "*Indicated-perpetrator undetermined* ~~Indicated~~ report" means a report made pursuant to s. 415.504 when a child protective investigation determines that some indication of abuse or neglect exists.

(11) "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect in which the person allegedly perpetrating the child abuse or neglect is an employee of a public or private school, public or private day care center, residential home, institution, facility, or agency or any other person responsible for the child's care.

(12) "Mental injury" means an injury to the intellectual or psychological capacity of a child as evidenced by a discernible and substantial impairment in his ability to function within his normal range of performance and behavior, with due regard to his culture.

(13) "Other person responsible for a child's welfare" includes the child's legal guardian, legal custodian, or foster parent; an employee of a public or private school, public or private child day care center, residential home, institution, facility, or agency; or any other person legally responsible for the child's welfare in a residential setting.

(14) "Physical injury" means death, permanent or temporary disfigurement, or impairment of any bodily part.

(15) "Physician" means any licensed physician, dentist, podiatrist, or optometrist and includes any intern or resident.

(16) "Proposed confirmed report" means a report made pursuant to s. 415.504 when a child protective investigation alleges that abuse or neglect occurred and which identifies the alleged perpetrator.

(17)~~(16)~~ "Sexual abuse of a child" means one or more of the following acts:

(a) Any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen.

(b) Any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.

(c) Any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that it does not include any act intended for a valid medical purpose.

(d) The intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of either the child or the perpetrator, except that it does not include:

1. Any act which may reasonably be construed to be a normal caretaker responsibility, an interaction with, or affection for a child; or

2. Any act intended for a valid medical purpose.

(e) The intentional masturbation of the perpetrator's genitals in the presence of a child.

(f) The intentional exposure of the perpetrator's genitals in the presence of a child, or any other sexual act intentionally perpetrated in the presence of a child, if such exposure or sexual act is for the purpose of sexual arousal or gratification, aggression, degradation, or other similar purpose.

(g) The sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to:

1. Solicit for or engage in prostitution; or

2. Engage in a sexual performance, as defined by chapter 827.

(18)~~(17)~~ "Unfounded report" means a report made pursuant to s. 415.504 when an investigation determines that no indication of abuse or neglect exists.

Section 6. Subsection (4) of section 415.504, Florida Statutes, as amended by section 21 of chapter 88-337, Laws of Florida, and section 33 of chapter 89-294, Laws of Florida, is amended to read:

415.504 Mandatory reports of child abuse or neglect; mandatory reports of death; central abuse registry and tracking system.—

(4)(a) The department shall establish and maintain a central abuse registry and tracking system which shall receive all reports made pursuant to this section in writing or through a single statewide toll-free telephone number which any person may use to report known or suspected child abuse or neglect at any hour of the day or night, any day of the week. The central abuse registry and tracking system shall be operated in such a manner as to enable the department to:

1. Immediately identify and locate prior reports or cases of child abuse or neglect through utilization of the department's automated tracking system.

2. Monitor and evaluate the effectiveness of the department's program for reporting, investigating, and classifying suspected abuse or neglect of children through the development and analysis of statistical and other information.

3. Track critical steps in the investigative process to ensure compliance with all requirements for any report of abuse or neglect.

4. Maintain and produce aggregate statistical reports monitoring patterns of both child abuse and child neglect.

5. Serve as a resource for the evaluation, management, and planning of preventive and remedial services for children who have been subject to abuse or neglect.

(b) Upon receiving an oral or written report of known or suspected child abuse or neglect, the central abuse registry and tracking system shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse registry and tracking system shall immediately notify the department's designated children, youth, and families district staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not requiring an immediate onsite protective investigation, the central abuse registry and tracking system shall notify the department's designated children, youth, and families district staff responsible for protective investigations in sufficient time to allow for an investigation to be commenced within 24 hours. At the time of notification of district staff with respect to the report, the central abuse registry and tracking system shall also provide information on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.

(c)1. Upon commencing an investigation, the child protective investigator shall inform any subject of the investigation of the following:

a. The names of the investigators and identifying credentials from the department.

b. The purpose of the investigation.

c. The possible consequences of the investigation.

d. How the information provided by the subject may be used.

e. The description of the risk assessment process and placement of a child.

f. That the child, the child's parent or guardian, a perpetrator named in a proposed confirmed report, and legal counsel for the aforementioned persons have a right to a copy of the report at the conclusion of the investigation.

g. That persons who are entitled to receive a copy of the report also have the right to submit a written comment or rebuttal which may be made a part of the report.

h. That subjects may have additional appeal rights which will be explained in writing when appropriate and necessary at the conclusion of the investigation.

i. That the court will appoint a guardian ad litem to represent the interest of the child should dependency proceedings result from the investigation.

j. The telephone number and name of a department employee available to answer questions.

2.~~(c)~~ Upon completion of its investigation, the local office of the department shall classify reports as *proposed confirmed, indicated-perpetrator undetermined,* ~~"confirmed," "indicated,"~~ or "unfounded." *In the case of proposed confirmed reports,* ~~At this time~~ the department shall notify the parent or guardian of the child, the child if appropriate,

and the alleged perpetrator, if other than the child's parent or guardian, of the completion of its investigation of the report and whether the report is classified as *proposed confirmed, indicated-perpetrator undetermined,* ~~"confirmed," "indicated,"~~ or "unfounded." All identifying information in the central abuse registry and tracking system or other computer systems or records that is related to unfounded reports shall be expunged *within 30 days* ~~1 year~~ after the case is classified as "unfounded." All identifying information in the central abuse registry and tracking system or other computer systems or records that is related to an *indicated-perpetrator undetermined* ~~indicated~~ report shall be expunged from the central abuse registry and tracking system 7 years after the receipt date of the last *indicated-perpetrator undetermined* ~~indicated~~ report concerning any person named in the report. Computer records of a confirmed report shall be retained for 50 years from the receipt date of the report. All information, other than identifying information, related to *indicated-perpetrator undetermined* ~~indicated~~ or unfounded reports at the time of expunction shall be disposed of in a manner deemed appropriate by the department and pursuant to ss. 119.041 and 257.36(7). Unfounded reports shall only be indexed by the name of the child to detect patterns of abuse or neglect. Persons named in the unfounded or *indicated-perpetrator undetermined* ~~indicated~~ reports shall not be identified as perpetrators. All information in the central abuse registry and tracking system or other computer systems or records *is* ~~shall be~~ subject to the confidentiality provisions in s. 415.51.

(d)1. Where it is shown that the record is inaccurate or inconsistent with ss. 415.501-415.514, the department shall amend or expunge the record. The department shall notify the parent or guardian of the child, the child if appropriate, and the alleged perpetrator, if other than the child's parent or guardian, of what amendment is made to the record or of the expunction of the record.

2. Subsequent to the completion of the department's investigation, any alleged perpetrator of a *proposed* confirmed report may request the secretary to amend or expunge the case record and all identifying information in the central abuse registry and tracking system or other computer systems or records pertaining to that report on the grounds that the record is inaccurate or is being maintained in a manner inconsistent with ss. 415.501-415.514.

3. Notice to the alleged perpetrator *named in* ~~of~~ a *proposed* confirmed report *must* ~~shall~~ state ~~that~~:

a. The facts which are alleged to support the proposed report classification and the nature of the abuse or neglect proposed to be confirmed by the department;

b.~~a.~~ *That the department intends to classify* the report ~~has been classified~~ as confirmed;

c.~~b.~~ *That* the alleged perpetrator *named in* ~~of~~ a confirmed report may be disqualified from working with children or the developmentally disabled or from working in sensitive positions involving the care of children, the developmentally disabled, disabled adults, or aged persons;

d.~~c.~~ *That* the alleged perpetrator may request amendment or expunction of the *proposed* confirmed report, if the alleged perpetrator does not agree with the classification;

e.~~d.~~ *That* the request by the alleged perpetrator for amendment or expunction of the *proposed* confirmed report must be received by the department within 30 days after the alleged perpetrator receives notice of the *proposed* classification of the report;

f.~~e.~~ *That* the alleged perpetrator *may* ~~can~~ obtain more information by calling the person whose name and telephone number are provided in the notice; and

g.~~f.~~ *That* the failure to timely ask for amendment or expunction means the alleged perpetrator agrees not to contest the *proposed* classification of the report.

Notice to the alleged perpetrator shall be sent by certified mail.

4. *If the alleged perpetrator fails* ~~Failure~~ to respond within the time specified in subparagraph 3., *he may* ~~means that the alleged perpetrator agrees~~ not ~~to~~ contest the *proposed* classification of the report, *and the report must be classified as confirmed.* The alleged perpetrator may within 1 year of the classification of the report as confirmed request the department to set aside *the* ~~a~~ confirmed report *if he shows* ~~where it can be shown~~ that the failure to ask for amendment or expunction was due to excusable neglect or fraud. The standard for excusable neglect or fraud shall be as provided in the Florida Rules of Civil Procedure.

5. If the alleged perpetrator *named in* ~~of~~ a *proposed* confirmed report asks for amendment or expunction, the secretary may amend or expunge the record. If the secretary refuses or does not act within 30 days after receiving such a request, the alleged perpetrator *named in* ~~of~~ a *proposed* confirmed report *has* ~~shall have~~ the right to an administrative hearing to *determine the classification* ~~contest whether the record~~ of the report ~~should be amended or expunged~~. At the chapter 120 hearing, the department shall prove by a preponderance of evidence that the perpetrator committed the abuse or neglect. The department's investigative report shall be considered competent evidence at the chapter 120 hearing, and the technical rules of evidence shall not exclude such report. If the secretary refuses to amend or expunge and the alleged perpetrator *named in* ~~of~~ a *proposed* confirmed report fails to timely ask for an administrative hearing, ~~the failure to timely ask shall mean that~~ the *alleged* perpetrator *may* ~~agrees~~ not ~~to~~ contest the secretary's decision and the findings of the *proposed* confirmed report of abuse or neglect. If the secretary refuses to amend or expunge and the alleged perpetrator of a *proposed* confirmed report asks for an administrative hearing and the department's classification is upheld, the report *must be classified* ~~shall remain~~ as confirmed *in the central abuse registry and tracking system.* Any person who is named in an *indicated-perpetrator undetermined* ~~indicated~~ report shall not ~~have the right to~~ challenge the department's classification system through the department or through an administrative hearing under chapter 120.

6. The confidentiality of the abuse or neglect report shall, to the extent possible, be maintained during the administrative hearing process. The administrative hearing shall be closed, the administrative files shall be closed and not disclosed to the public under s. 119.07(1), and any identifying information in the recommended or final order shall be deleted prior to publishing pursuant to chapter 120.

Section 7. Paragraphs (a), (b), (f), (h), and (j) of subsection (1) and subsection (2) of section 415.505, Florida Statutes, are amended to read:

415.505 Child protective investigations; institutional child abuse or neglect investigations.—

(1)(a) The department shall be capable of receiving and investigating reports of known or suspected child abuse or neglect 24 hours a day, 7 days a week. If it appears that the immediate safety or well-being of a child is endangered, that the family may flee or the child will be unavailable for purposes of conducting a child protective investigation, or that the facts otherwise so warrant, the department shall commence an investigation immediately, regardless of the time of day or night. In all other child abuse or neglect cases, a child protective investigation shall be commenced within 24 hours of receipt of the report. *In institutional child abuse cases where the institution is not operating and the child cannot otherwise be located, the investigation shall commence immediately upon the program resuming operation. The alleged perpetrator shall be entitled to legal representation, at his or her expense, during questioning in connection with the investigation, but the absence of counsel shall not prevent the department from proceeding with other aspects of the investigation including interviews with other persons. Legal counsel shall be bound by the confidentiality of s. 415.51.* If requested by a state attorney and/or local law enforcement agency, the department shall furnish all investigative reports to those agencies.

(b) For each report it receives, the department shall perform an onsite child protective investigation to:

1. Determine the composition of the family or household, including the name, address, date of birth, social security number, sex, and race of each child named in the report; any siblings or other children in the same household or in the care of the same adults; the parents or other persons responsible for the child's welfare; and any other adults in the same household.

2. Determine whether there is indication that any child in the family or household is abused or neglected, including a determination of harm or threatened harm to each child; the nature and extent of present or prior injuries, abuse, or neglect, and any evidence thereof; and a determination as to the person or persons apparently responsible for the abuse or neglect, including the name, address, date of birth, social security number, sex, and race of each person to be classified as an alleged perpetrator in a *proposed* confirmed report. An alleged perpetrator in a *proposed* confirmed report of abuse or neglect shall cooperate in the provision of the required data for the central abuse registry and tracking system, to the fullest extent possible.

3. Determine the immediate and long-term risk to each child through utilization of standardized risk assessment instruments.

4. Determine the protective, treatment, and ameliorative services necessary to safeguard and ensure the child's well-being and development and cause the delivery of those services through the early intervention of the departmental worker responsible for provision and management of identified services in order to preserve and stabilize family life, if possible.

5. Within existing resources, the Department of Health and Rehabilitative Services and the Department of Education shall jointly develop a coordinated protocol for child abuse investigations involving district school board personnel. The protocol shall include, at a minimum:

a. Procedures for conducting investigations to maximize cooperation and minimize duplication of investigative effort.

b. Procedures for sharing information within the confidentiality framework of s. 415.51.

c. Procedures for integrated training of Department of Health and Rehabilitative Services, district school board, and Department of Education staff.

(f) No later than 30 days *after receiving the initial report, the local office of the department shall complete its investigation and classify the report as proposed confirmed, indicated-perpetrator undetermined, or unfounded. These findings must be reported to the department's central abuse registry and tracking system. For proposed confirmed reports,* after receiving the *final administrative order rendered in a hearing requested pursuant to s. 415.504(4)(d) or after the 30-day period during which an alleged perpetrator of a proposed confirmed report may request such a hearing has expired,* ~~initial report, the local office of~~ the department shall *classify* ~~complete its investigation; determine whether~~ the *report of* ~~reported~~ abuse *as* ~~was~~ confirmed, *indicated-perpetrator undetermined,* ~~indicated,~~ or unfounded~~;~~ and *shall* report its findings to the department's central abuse registry and tracking system, *and must do so in accordance with the final order if a hearing was held.*

(h) Immediately upon receipt of a report alleging, or immediately upon learning during the course of an investigation, that:

1. A child died as a result of abuse or neglect;

2. A child is a victim of aggravated child abuse as defined in s. 827.03; or

3. A child is a victim of sexual battery or of sexual abuse as defined in s. 415.503,

the department shall orally notify the appropriate state attorney and the appropriate law enforcement agency, which shall immediately conduct a joint criminal investigation, unless independent investigations are more feasible. In all cases, the department shall make a full written report to the state attorney within 3 days of making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. If the department, as a result of its investigation, determines that there is cause to classify the report of the occurrence of an offense described in this paragraph as *a proposed confirmed report* ~~"confirmed,"~~ rather than *as an indicated-perpetrator undetermined or unfounded report,* ~~"indicated" or "unfounded,"~~ the department may recommend that criminal charges be filed against the alleged perpetrator. Any interested person who has information regarding an offense described in this paragraph may forward a statement to the state attorney as to whether prosecution is warranted and appropriate.

(j) If the department, as a result of its investigation, determines that there is cause to classify the report of abuse or neglect as *a proposed confirmed report* ~~"confirmed,"~~ rather than *as an indicated-perpetrator undetermined or unfounded report,* ~~"indicated" or "unfounded,"~~ and the alleged perpetrator has a prior confirmed report of abuse or neglect, then the department shall recommend to the state attorney that he consider whether prosecution is justified and appropriate in view of the nature of the abuse or neglect and in view of the fact that it is a subsequent confirmed report of abuse or neglect by the same perpetrator.

(2)(a) The department shall conduct a child protective investigation of each report of institutional child abuse or neglect. Upon receipt of a report which alleges that an employee or agent of the department, the Department of Education, any district school board, or any other entity or person covered by s. 415.503(11) or (13), acting in an official capacity, has committed an act of child abuse or neglect, the department shall immediately initiate a child protective investigation and orally notify the appropriate state attorney and law enforcement agency, which shall immediately conduct a joint criminal investigation, unless independent investigations are more feasible. In all cases, the department shall make a full written report to the state attorney within 3 days of making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. If the department, as a result of its investigation, determines that there is cause to classify the report of abuse or neglect as "*proposed* confirmed," rather than "indicated-*perpetrator undetermined*" or "unfounded," the department may recommend that criminal charges be filed against the perpetrator. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of his investigation, the state attorney shall report his findings to the department and shall include in such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

(b)1. If in the course of the child protective investigation, the department finds that a subject of a report, by continued contact with children in care, constitutes a threatened harm to the physical health, mental health, or welfare of the children, the department may restrict a subject's access to the children pending the outcome of the investigation and the classification of the report. The department shall employ the least restrictive means necessary to safeguard the physical health, mental health, and welfare of the children in care. This authority shall apply only to child protective investigations in which there is some evidence that child abuse or neglect has occurred but in which the level of evidence necessary to classify the report as "*proposed* confirmed" has not yet been established. A subject of a report whose access to children in care has been restricted is entitled to petition the circuit court for judicial review. The court shall enter written findings of fact based upon the preponderance of evidence that child abuse or neglect did occur and that the department's restrictive action against a subject of the report was justified in order to safeguard the physical health, mental health, and welfare of the children in care. The restrictive action of the department shall be effective for no more than 90 days without a judicial finding supporting the actions of the department.

2. Upon completion of the department's child protective investigation and classification of the report as *a proposed confirmed report,* ~~"confirmed,"~~ and pending *such* ~~the confirmed~~ report being uncontested or being upheld pursuant to the procedures provided in s. 415.504, the department may make application to the circuit court for the following if necessary to safeguard the physical health, mental health, and welfare of the children in care:

a. Continued restrictive action of a subject of the report under subparagraph 1. who is named as a perpetrator; and

b. Restrictive action against any other perpetrator named in the *proposed* confirmed report.

(c) Pursuant to the restrictive actions described in paragraph (b), in cases of institutional abuse or neglect in which the removal of the subject of a report or the perpetrator in a *proposed* confirmed report will result in the closure of the facility, and when requested by the owner of the facility, the department may provide appropriate personnel to assist in maintaining the operation of the facility. The department may provide assistance when it can be demonstrated by the owner that there are no reasonable alternatives to such action. The length of the assistance shall be agreed upon by the owner and the department; however, the assistance shall not be for longer than the course of the restrictive action imposed pursuant to paragraph (b). The owner shall reimburse the department for the assistance of personnel provided.

(d) The department shall notify the human rights advocacy committee in the appropriate district of the department as to every report of institutional child abuse or neglect in the district in which a client of the department is alleged or shown to have been abused or neglected, which notification shall be made within *48* 24 hours of the time the department commences its investigation.

Section 8. Subsections (2), (4), (5), and (6) of section 415.51, Florida Statutes, are amended to read:

415.51 Confidentiality of reports and records in cases of child abuse and neglect.—

(2) Access to such records, excluding the name of the reporter which shall be released only as provided in subsection (7), *shall depend on the classification of the report, and* shall be granted only to the following persons, officials, and agencies. *Access to unfounded reports shall be limited to the persons and for the purposes stated in paragraphs (a), (b), (c), (g), and (l). Access to indicated-perpetrator undetermined reports shall be limited to the persons and for the purposes stated in paragraphs (a), (b), (c), (e), (f), (g), and (h). Access to proposed confirmed reports shall be limited to the persons and for the purposes stated in paragraphs (a) through (i). Access to confirmed reports shall be limited to the persons and for the purposes stated in paragraphs (a) through (k), as follows:* ~~for the following purposes:~~

(a) Employees or agents of the department responsible for carrying out child or adult protective investigations, ongoing child or adult protective services, or licensure or approval of adoptive homes, foster homes, or other homes used to provide for the care and welfare of children.

(b) A law enforcement agency investigating a report of known or suspected child abuse or neglect.

~~(c) The principal of the school in which a school resource officer is investigating a report of child abuse involving a student enrolled in that school.~~

(c)~~(d)~~ The state attorney of the judicial circuit in which the child resides or in which the alleged abuse or neglect occurred.

(d)~~(e)~~ Any child, parent, or perpetrator who is the subject of a *proposed confirmed or confirmed* report or the subject's guardian, custodian, guardian ad litem, or counsel.

(e)~~(f)~~ A court, by subpoena, upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access shall be limited to inspection in camera, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it.

(f)~~(g)~~ A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.

(g)~~(h)~~ Any appropriate official of the department responsible for:

1. Administration or supervision of the department's program for the prevention, investigation, or treatment of child abuse or neglect when carrying out his official function; or

2. Taking appropriate administrative action concerning an employee of the department alleged to have perpetrated institutional child abuse or neglect.

(h)~~(i)~~ Any person engaged in bona fide research or audit purposes. However, no information identifying the subjects of the report shall be made available to the researcher ~~unless such information is absolutely essential to the research purpose, suitable provision is made to maintain the confidentiality of the data, and the department has given written approval~~.

~~(j) The Department of Law Enforcement for the purpose of assisting local law enforcement agencies and the department in identifying and investigating crimes perpetrated against children, including, but not limited to, prostitution, sexual or physical abuse, pornography, pedophilia, and child homicides.~~

(i)~~(k)~~ The Division of Administrative Hearings for purposes of any administrative challenge relating to *a proposed confirmed or confirmed* ~~the~~ report.

(j)~~(l)~~ The Department of Professional Regulation when taking disciplinary action against a licensee for actions which resulted in a confirmed report of abuse, neglect, or exploitation which has been upheld following a chapter 120 hearing or a waiver of such proceedings.

~~(m) The Florida School for the Deaf and the Blind for the purpose of conducting background screenings on employees and applicants for employment at the school.~~

(k)~~(n)~~ The Office of Professional Practices Services of the Department of Education for the purpose of assisting the Department of Education in determining whether an individual *who is named as the perpetrator in a confirmed report of abuse or neglect which has been upheld following a chapter 120 hearing or which became final without a hearing* should obtain or hold a Florida teaching certificate.

(l) Any appropriate official of the human rights advocacy committee investigating a report of known or suspected child abuse or neglect.

(4) The department shall search its central abuse registry and tracking system records pursuant to the requirements of ss. 110.1127, *242.335,* 393.0655, 394.457, 396.0425, 397.0715, 400.478, 400.497, 402.305(1), 402.3055, 402.313, 409.175, 409.176, 464.008, and 959.06 for the existence of a confirmed report made on the personnel as defined in the foregoing provisions. The search shall also include indicated reports prior to July 1, 1987. Reports prior to 1978 shall not be included. If the search reveals an indicated report prior to July 1, 1987, the department shall review the report to determine whether the indicated report shall *be* ~~remain~~ classified as indicated-*perpetrator undetermined* or shall be classified as *proposed* confirmed according to the definitions in s. 415.503. If the report *is* ~~remains~~ classified as indicated-*perpetrator undetermined*, the individual may not be disqualified. If the report is classified as confirmed, the department shall notify the individual according to the provisions of s. 415.504(4)(d)*3.* The department shall report the existence of any confirmed report of abuse and advise the authorized licensing agency, applicant for license, or other authorized agency or person of the results of the search *and,* the date of the report.~~, whether 30 days have elapsed for requests for expunction or amendment, failure of the alleged perpetrator to respond pursuant to s. 415.504(4)(d), results of any hearing conducted by the secretary and any subsequent administrative hearing, and~~ In the case of judicial determination of abuse, the *department shall report the* procedure for inspection of court records as set forth in s. 39.411(3). The department shall not release any information on unfounded or indicated-*perpetrator undetermined* reports. Prior to a search being conducted, the department or its designee shall notify such person that an inquiry will be made. The department shall notify each person for whom a search is conducted of the results of the search upon request.

(5) The department shall, with the written consent of a person applying to a licensed child-placing agency for the adoption of a child, search its central abuse registry and tracking system for the existence of a confirmed report and advise the licensed child-placing agency of any such report found ~~and the results of the investigation conducted pursuant thereto, including whether 30 days have elapsed for requests for expunction or amendment, failure of the alleged perpetrator to respond pursuant to s. 415.504(4)(d), and results of any hearing conducted by the secretary and any subsequent administrative hearing held on the report~~.

(6) Except as provided in subsection (4), the department shall, with the written consent of a person applying to work with children as a volunteer or as a paid employee for a public or private nonprofit agency, or for an individual family, search its central abuse registry and tracking system for the existence of a confirmed report and shall advise such agency or family of any such report found and the results of the investigation ~~conducted pursuant thereto, including whether 30 days have elapsed for requests for expunction or amendment, failure of the alleged perpetrator to respond pursuant to s. 415.504(4)(d), and results of any hearing conducted by the secretary and any subsequent administrative hearing held on the report~~.

Section 9. Within 30 days after the effective date of this act, all identifying information in the central abuse registry and tracking system or other computer systems or records of the Department of Health and Rehabilitative Services that is related to an existing unfounded report must be expunged.

Section 10. This act shall take effect upon becoming a law.

House Amendment 2—On page 1, line 1, strike the entire title and insert: A bill to be entitled An act relating to protection of persons from abuse, neglect, and exploitation; amending s. 415.102, F.S.; redefining the term "indicated report" as "indicated-perpetrator undetermined report" as the term is used in provisions relating to the abuse, neglect, and exploitation of aged persons and disabled adults; redefining "abuse," "confirmed report," and "neglect"; defining "proposed confirmed report"; amending s. 415.103, F.S.; revising a procedure for expunging certain records of the abuse, neglect, or exploitation of aged persons and disabled adults from the central abuse registry and tracking system within the Department of Health and Rehabilitative Services; specifying information to be given to any subject of an investigation; revising procedures for classifying such reports as confirmed; amending s. 415.104, F.S.; requiring

the aging and adult services district staffs of the department to complete investigations of reported abuse, neglect, or exploitation within a specified time period; entitling the alleged perpetrator to certain representation at the onsite investigation; requiring the department to classify certain such reports pursuant to an order rendered in an administrative hearing; limiting use of warnings, reprimands, or disciplinary actions; amending s. 415.107, F.S.; limiting access to records depending on the classification of the report; authorizing additional searches of the abuse registry; conforming cross references; amending s. 415.503, F.S.; redefining the term "indicated report" as "indicated-perpetrator undetermined report" as the term is used in provisions relating to abused or neglected children; redefining "abused or neglected child," "child abuse or neglect," "confirmed report," and "harm"; defining "proposed confirmed report"; amending s. 415.504, F.S.; specifying information to be given to any subject of an investigation of a report of the abuse, neglect, or death of a child; revising provisions used by the Department of Health and Rehabilitative Services to classify certain child abuse and neglect reports prior to an administrative hearing or opportunity for such hearing; requiring the department to provide additional information in notices to certain alleged perpetrators of child abuse or neglect; providing requirements for administrative hearings; requiring confirmed reports of child abuse or neglect to be placed in the central abuse registry and tracking system; conforming terminology; amending s. 415.505, F.S.; requiring the office of the department that conducts a child protective investigation to complete investigations of reported child abuse or neglect within a specified time period, providing for immediate commencement of investigations in certain institutional child abuse cases; entitling the alleged perpetrator to certain representation at the onsite investigation; requiring the Department of Health and Rehabilitative Services and the Department of Education to develop a protocol for investigations; conforming language; requiring the department to classify its report of such investigation pursuant to an order rendered in an administrative hearing; extending time period for notice of an investigation to the district human rights advocacy committee; amending s. 415.51, F.S.; limiting access to records depending on the classification of the report; authorizing additional searches of the abuse registry; requiring the expunction of identifying information within unfounded reports of abuse, neglect, and exploitation from the central abuse registry and tracking system and other computer systems and records of the department; providing an effective date.

On motions by Senator Weinstock, the Senate concurred in the House amendments.

CS for SB's 790 and 1480 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38

Mr. President	Diaz-Balart	Kiser	Souto
Bankhead	Dudley	Langley	Stuart
Beard	Forman	Malchon	Thomas
Brown	Gardner	Margolis	Thurman
Bruner	Girardeau	McPherson	Walker
Casas	Gordon	Meek	Weinstein
Childers, D.	Grant	Myers	Weinstock
Childers, W. D.	Grizzle	Peterson	Woodson-Howard
Crenshaw	Jennings	Plummer	
Davis	Johnson	Scott	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

Reconsideration

On motion by Senator Thomas, the rules were waived and the Senate reconsidered the vote by which—

SB 706—A bill to be entitled An act relating to the regulation of receptive tour operators; amending s. 559.925, F.S.; defining the term "receptive tour operator" for purposes of regulation; providing for regulation of receptive tour operators by the Department of Agriculture and Consumer Services rather than by the Department of Business Regulation; providing for the deposit of fees and fines; providing duties of the department; transferring certain powers, duties, functions, records, and property from the Department of Business Regulation to the Department of Agriculture and Consumer Services; abrogating the repeal of s. 559.925, F.S., scheduled under the Regulatory Sunset Act; providing for future review and repeal; providing an effective date.

—passed May 23.

Senator Thomas moved the following amendment which was adopted:

Amendment 2—In title, on page 1, strike all of lines 2 and 3 and insert: An act relating to the regulation of commercial enterprises; amending s. 559.801, F.S.; prescribing certain requirements for the sales of business opportunities; exempting the sale of certain equipment from the definition of "business opportunity"; amending s. 559.925, F.S.;

On motion by Senator Thomas, CS for SB 706 as amended was read by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35

Mr. President	Davis	Grizzle	Souto
Bankhead	Deratany	Jennings	Stuart
Beard	Diaz-Balart	Johnson	Thomas
Brown	Dudley	Kiser	Thurman
Bruner	Forman	Malchon	Walker
Casas	Gardner	Margolis	Weinstein
Childers, D.	Girardeau	Meek	Weinstock
Childers, W. D.	Gordon	Peterson	Woodson-Howard
Crenshaw	Grant	Scott	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Langley

On motion by Senator Thomas, the rules were waived and **CS for SB 706** was ordered immediately certified to the House.

CS for SB 1022—A bill to be entitled An act relating to Department of Transportation contract administration; amending s. 337.106, F.S.; providing that the requirement for professional liability insurance with respect to firms rendering certain services to the Department of Transportation may be waived by the department under certain circumstances; amending s. 337.125, F.S.; providing procedures for the department to document that a subcontractor is a disadvantaged business enterprise; amending s. 339.0805, F.S.; requiring the department to annually certify socially and economically disadvantaged business enterprises; providing procedures for such certification or the denial thereof; providing the department authority to revoke such certification under certain circumstances; providing procedures for such revocation; excluding businesses denied certification from inclusion on the department's directory of disadvantaged business enterprises during judicial review of such exclusion; amending s. 337.175, F.S.; providing that contractors may substitute certificates of deposit or irrevocable letters of credit in lieu of retainage; providing an effective date.

—was read the second time by title.

Senator Forman moved the following amendment which was adopted:

Amendment 1—On page 5, strike all of lines 5-9 and insert: *whichever is later*

On motion by Senator Forman, by two-thirds vote CS for SB 1022 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Mr. President	Deratany	Jennings	Peterson
Bankhead	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kiser	Stuart
Brown	Forman	Langley	Thomas
Bruner	Gardner	Malchon	Thurman
Casas	Girardeau	Margolis	Walker
Childers, W. D.	Gordon	McPherson	Weinstein
Crenshaw	Grant	Meek	Weinstock
Davis	Grizzle	Myers	Woodson-Howard

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Scott

Motion

On motion by Senator Scott, the rules were waived and the Committee on Appropriations was granted permission to meet May 25 at 12:00 noon or upon adjournment to consider CS for CS for SB 1548, CS for SB 1906, CS for SB 2450, CS for SB 2536 and CS for SB 2598.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Margolis, by two-thirds vote SB 1472 and CS for SB 2256 were withdrawn from the Committee on Appropriations.

On motions by Senator Deratany, by two-thirds vote CS for SB 1304, CS for SB 2042, CS for SB 2744, SB 2796 and CS for SB 2996 were withdrawn from the Committee on Finance, Taxation and Claims.

On motions by Senator Scott, by two-thirds vote CS for SB 622 was withdrawn from the Committee on Judiciary-Civil; CS for SB 1318 was withdrawn from the Committee on Community Affairs; CS for SB 2410 and CS for SB 2522 were withdrawn from the Committee on Governmental Operations; CS for SB 2634 and CS for SB 2680 were withdrawn from the Committee on Rules and Calendar; and HB 1645 was withdrawn from the Committees on Judiciary-Criminal and Appropriations.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of May 23 was corrected and approved.

CO-INTRODUCERS

Senator Souto—SB 262, SB 1218; Senator D. Childers—SB 1362; Senator Gardner—SB 1928; Senator Woodson-Howard—CS for SB 2062

RECESS

On motion by Senator Scott, the Senate recessed at 4:58 p.m. to reconvene at 10:00 a.m., Friday, May 25.